

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 4g, 6, 11, and 11c as follows:

6 (35 ILCS 130/4g)

7 (This Section may contain text from a Public Act with a
8 delayed effective date)

9 Sec. 4g. Retailer's license. Beginning on January 1, 2016,
10 no person may engage in business as a retailer of cigarettes in
11 this State without first having obtained a license from the
12 Department. Application for license shall be made to the
13 Department, by electronic means, in a form prescribed by the
14 Department. Each applicant for a license under this Section
15 shall furnish to the Department, in an electronic format
16 established by the Department, the following information:

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

18 (2) the address of the location at which the applicant
19 proposes to engage in business as a retailer of cigarettes
20 in this State; and

21 (3) such other additional information as the
22 Department may lawfully require by its rules and
23 regulations.

1 The annual license fee payable to the Department for each
2 retailer's license shall be \$75. The fee shall be deposited
3 into the Tax Compliance and Administration Fund and shall be
4 for the cost of tobacco retail inspection and contraband
5 tobacco and tobacco smuggling with at least two-thirds of the
6 money being used for contraband tobacco and tobacco smuggling
7 operations and enforcement.

8 Each applicant for a license shall pay the fee to the
9 Department at the time of submitting its application for a
10 license to the Department. The Department shall require an
11 applicant for a license under this Section to electronically
12 file and pay the fee.

13 A separate annual license fee shall be paid for each place
14 of business at which a person who is required to procure a
15 retailer's license under this Section proposes to engage in
16 business as a retailer in Illinois under this Act.

17 The following are ineligible to receive a retailer's
18 license under this Act:

19 (1) a person who has been convicted of a felony related
20 to the illegal transportation, sale, or distribution of
21 cigarettes, or a tobacco-related felony, under any federal
22 or State law, if the Department, after investigation and a
23 hearing if requested by the applicant, determines that the
24 person has not been sufficiently rehabilitated to warrant
25 the public trust; or

26 (2) a corporation, if any officer, manager, or director

1 thereof, or any stockholder or stockholders owning in the
2 aggregate more than 5% of the stock of such corporation,
3 would not be eligible to receive a license under this Act
4 for any reason.

5 The Department, upon receipt of an application and license
6 fee, in proper form, from a person who is eligible to receive a
7 retailer's license under this Act, shall issue to such
8 applicant a license in form as prescribed by the Department.
9 That license shall permit the applicant to whom it is issued to
10 engage in business as a retailer under this Act at the place
11 shown in his or her application. All licenses issued by the
12 Department under this Section shall be valid for a period not
13 to exceed one year after issuance unless sooner revoked,
14 canceled, or suspended as provided in this Act. No license
15 issued under this Section is transferable or assignable. The
16 license shall be conspicuously displayed in the place of
17 business conducted by the licensee in Illinois under such
18 license. The Department shall not issue a retailer's license to
19 a retailer unless the retailer is also registered under the
20 Retailers' Occupation Tax Act. A person who obtains a license
21 as a retailer who ceases to do business as specified in the
22 license, or who never commenced business, ~~or who obtains a~~
23 ~~distributor's license,~~ or whose license is suspended or
24 revoked, shall immediately surrender the license to the
25 Department.

26 Any person aggrieved by any decision of the Department

1 under this Section ~~subsection~~ may, within 30 days after notice
2 of the decision, protest and request a hearing. Upon receiving
3 a request for a hearing, the Department shall give written
4 notice to the person requesting the hearing of the time and
5 place fixed for the hearing and shall hold a hearing in
6 conformity with the provisions of this Act and then issue its
7 final administrative decision in the matter to that person. In
8 the absence of a protest and request for a hearing within 30
9 days, the Department's decision shall become final without any
10 further determination being made or notice given.

11 (Source: P.A. 98-1055, eff. 1-1-16; revised 12-1-14.)

12 (35 ILCS 130/6) (from Ch. 120, par. 453.6)

13 (Text of Section before amendment by P.A. 98-1055)

14 Sec. 6. Revocation, cancellation, or suspension of
15 license. The Department may, after notice and hearing as
16 provided for by this Act, revoke, cancel or suspend the license
17 of any distributor or secondary distributor for the violation
18 of any provision of this Act, or for noncompliance with any
19 provision herein contained, or for any noncompliance with any
20 lawful rule or regulation promulgated by the Department under
21 Section 8 of this Act, or because the licensee is determined to
22 be ineligible for a distributor's license for any one or more
23 of the reasons provided for in Section 4 of this Act, or
24 because the licensee is determined to be ineligible for a
25 secondary distributor's license for any one or more of the

1 reasons provided for in Section 4c of this Act. However, no
2 such license shall be revoked, cancelled or suspended, except
3 after a hearing by the Department with notice to the
4 distributor or secondary distributor, as aforesaid, and
5 affording such distributor or secondary distributor a
6 reasonable opportunity to appear and defend, and any
7 distributor or secondary distributor aggrieved by any decision
8 of the Department with respect thereto may have the
9 determination of the Department judicially reviewed, as herein
10 provided.

11 The Department may revoke, cancel, or suspend the license
12 of any distributor for a violation of the Tobacco Product
13 Manufacturers' Escrow Enforcement Act as provided in Section 30
14 of that Act. The Department may revoke, cancel, or suspend the
15 license of any secondary distributor for a violation of
16 subsection (e) of Section 15 of the Tobacco Product
17 Manufacturers' Escrow Enforcement Act.

18 Any distributor or secondary distributor aggrieved by any
19 decision of the Department under this Section may, within 20
20 days after notice of the decision, protest and request a
21 hearing. Upon receiving a request for a hearing, the Department
22 shall give notice in writing to the distributor or secondary
23 distributor requesting the hearing that contains a statement of
24 the charges preferred against the distributor or secondary
25 distributor and that states the time and place fixed for the
26 hearing. The Department shall hold the hearing in conformity

1 with the provisions of this Act and then issue its final
2 administrative decision in the matter to the distributor or
3 secondary distributor. In the absence of a protest and request
4 for a hearing within 20 days, the Department's decision shall
5 become final without any further determination being made or
6 notice given.

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

17 The Department upon complaint filed in the circuit court
18 may by injunction restrain any person who fails, or refuses, to
19 comply with any of the provisions of this Act from acting as a
20 distributor or secondary distributor of cigarettes in this
21 State.

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

23 (Text of Section after amendment by P.A. 98-1055)

24 Sec. 6. Revocation, cancellation, or suspension of
25 license. The Department may, after notice and hearing as

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

23 The Department may revoke, cancel, or suspend the license
24 of any distributor for a violation of the Tobacco Product
25 Manufacturers' Escrow Enforcement Act as provided in Section 30
26 of that Act. The Department may revoke, cancel, or suspend the

1 license of any secondary distributor for a violation of
2 subsection (e) of Section 15 of the Tobacco Product
3 Manufacturers' Escrow Enforcement Act.

4 If the retailer has a training program that facilitates
5 compliance with minimum-age tobacco laws, the Department shall
6 suspend for 3 days the license of that retailer for a fourth or
7 subsequent violation of the Prevention of Tobacco Use by Minors
8 and Sale and Distribution of Tobacco Products Act, as provided
9 in subsection (a) of Section 2 of that Act. For the purposes of
10 this Section, any violation of subsection (a) of Section 2 of
11 the Prevention of Tobacco Use by Minors and Sale and
12 Distribution of Tobacco Products Act occurring at the
13 retailer's licensed location during a 24-month period shall be
14 counted as a violation against the retailer.

15 If the retailer does not have a training program that
16 facilitates compliance with minimum-age tobacco laws, the
17 Department shall suspend for 3 days the license of that
18 retailer for a second violation of the Prevention of Tobacco
19 Use by Minors and Sale and Distribution of Tobacco Products
20 Act, as provided in subsection (a-5) of Section 2 of that Act.

21 If the retailer does not have a training program that
22 facilitates compliance with minimum-age tobacco laws, the
23 Department shall suspend for 7 days the license of that
24 retailer for a third violation of the Prevention of Tobacco Use
25 by Minors and Sale and Distribution of Tobacco Products Act, as
26 provided in subsection (a-5) of Section 2 of that Act.

1 If the retailer does not have a training program that
2 facilitates compliance with minimum-age tobacco laws, the
3 Department shall suspend for 30 days the license of a retailer
4 for a fourth or subsequent violation of the Prevention of
5 Tobacco Use by Minors and Sale and Distribution of Tobacco
6 Products Act, as provided in subsection (a-5) of Section 2 of
7 that Act.

8 A training program that facilitates compliance with
9 minimum-age tobacco laws must include at least the following
10 elements: (i) it must explain that only individuals displaying
11 valid identification demonstrating that they are 18 years of
12 age or older shall be eligible to purchase cigarettes or
13 tobacco products and ~~+~~ (ii) it must explain where a clerk can
14 check identification for a date of birth; ~~and (iii) it must~~
15 ~~explain the penalties that a clerk and retailer are subject to~~
16 ~~for violations of the Prevention of Tobacco Use by Minors and~~
17 ~~Sale and Distribution of Tobacco Products Act.~~ The training may
18 be conducted electronically. Each retailer that has a training
19 program shall require each employee who completes the training
20 program to sign a form attesting that the employee has received
21 and completed tobacco training. The form shall be kept in the
22 employee's file and may be used to provide proof of training.

23 Any distributor, secondary distributor, or retailer
24 aggrieved by any decision of the Department under this Section
25 may, within 20 days after notice of the decision, protest and
26 request a hearing. Upon receiving a request for a hearing, the

1 Department shall give notice in writing to the distributor,
2 secondary distributor, or retailer requesting the hearing that
3 contains a statement of the charges preferred against the
4 distributor, secondary distributor, or retailer and that
5 states the time and place fixed for the hearing. The Department
6 shall hold the hearing in conformity with the provisions of
7 this Act and then issue its final administrative decision in
8 the matter to the distributor, secondary distributor, or
9 retailer. In the absence of a protest and request for a hearing
10 within 20 days, the Department's decision shall become final
11 without any further determination being made or notice given.

12 No license so revoked, as aforesaid, shall be reissued to
13 any such distributor, secondary distributor, or retailer
14 within a period of 6 months after the date of the final
15 determination of such revocation. No such license shall be
16 reissued at all so long as the person who would receive the
17 license is ineligible to receive a distributor's license under
18 this Act for any one or more of the reasons provided for in
19 Section 4 of this Act, is ineligible to receive a secondary
20 distributor's license under this Act for any one or more of the
21 reasons provided for in Section 4c of this Act, or is
22 determined to be ineligible for a retailer's license under the
23 Act for any one or more of the reasons provided for in Section
24 4g of this Act.

25 The Department upon complaint filed in the circuit court
26 may by injunction restrain any person who fails, or refuses, to

1 comply with any of the provisions of this Act from acting as a
2 distributor, secondary distributor, or retailer of cigarettes
3 in this State.

4 (Source: P.A. 98-1055, eff. 1-1-16.)

5 (35 ILCS 130/11) (from Ch. 120, par. 453.11)

6 (Text of Section before amendment by P.A. 98-1055)

7 Sec. 11. Every distributor of cigarettes, who is required
8 to procure a license under this Act, shall keep within
9 Illinois, at his licensed address, complete and accurate
10 records of cigarettes held, purchased, manufactured, brought
11 in or caused to be brought in from without the State, and sold,
12 or otherwise disposed of, and shall preserve and keep within
13 Illinois at his licensed address all invoices, bills of lading,
14 sales records, copies of bills of sale, inventory at the close
15 of each period for which a return is required of all cigarettes
16 on hand and of all cigarette revenue stamps, both affixed and
17 unaffixed, and other pertinent papers and documents relating to
18 the manufacture, purchase, sale or disposition of cigarettes.
19 All books and records and other papers and documents that are
20 required by this Act to be kept shall be kept in the English
21 language, and shall, at all times during the usual business
22 hours of the day, be subject to inspection by the Department or
23 its duly authorized agents and employees. The Department may
24 adopt rules that establish requirements, including record
25 forms and formats, for records required to be kept and

1 maintained by taxpayers. For purposes of this Section,
2 "records" means all data maintained by the taxpayer, including
3 data on paper, microfilm, microfiche or any type of
4 machine-sensible data compilation. Those books, records,
5 papers and documents shall be preserved for a period of at
6 least 3 years after the date of the documents, or the date of
7 the entries appearing in the records, unless the Department, in
8 writing, authorizes their destruction or disposal at an earlier
9 date. At all times during the usual business hours of the day
10 any duly authorized agent or employee of the Department may
11 enter any place of business of the distributor, without a
12 search warrant, and inspect the premises and the stock or
13 packages of cigarettes and the vending devices therein
14 contained, to determine whether any of the provisions of this
15 Act are being violated. If such agent or employee is denied
16 free access or is hindered or interfered with in making such
17 examination as herein provided, the license of the distributor
18 at such premises shall be subject to revocation by the
19 Department.

20 (Source: P.A. 88-480.)

21 (Text of Section after amendment by P.A. 98-1055)

22 Sec. 11. Every distributor of cigarettes, who is required
23 to procure a license under this Act, shall keep within
24 Illinois, at his licensed address, complete and accurate
25 records of cigarettes held, purchased, manufactured, brought

1 in or caused to be brought in from without the State, and sold,
2 or otherwise disposed of, and shall preserve and keep within
3 Illinois at his licensed address all invoices, bills of lading,
4 sales records, copies of bills of sale, inventory at the close
5 of each period for which a return is required of all cigarettes
6 on hand and of all cigarette revenue stamps, both affixed and
7 unaffixed, and other pertinent papers and documents relating to
8 the manufacture, purchase, sale or disposition of cigarettes.
9 Every sales invoice issued by a licensed distributor to a
10 retailer in this State shall contain the distributor's
11 cigarette distributor license number unless the distributor
12 has been granted a waiver by the Department in response to a
13 written request in cases where (i) the distributor sells
14 cigarettes only to retailers that are wholly-owned by the
15 distributor or owned by a wholly-owned subsidiary of the
16 distributor; (ii) the retailer obtains cigarettes only from the
17 distributor requesting the waiver; and (iii) the distributor
18 affixes the tax stamps to the original packages of cigarettes
19 sold to the retailer. The distributor shall file a written
20 request with the Department, and, if the Department determines
21 that the distributor meets the conditions for a waiver, the
22 Department shall grant the waiver. All books and records and
23 other papers and documents that are required by this Act to be
24 kept shall be kept in the English language, and shall, at all
25 times during the usual business hours of the day, be subject to
26 inspection by the Department or its duly authorized agents and

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

22 (Source: P.A. 98-1055, eff. 1-1-16.)

23 (35 ILCS 130/11c)

24 (This Section may contain text from a Public Act with a
25 delayed effective date)

1 Sec. 11c. Retailers; records. Every retailer who is
2 required to procure a license under this Act shall keep within
3 Illinois complete and accurate records of cigarettes
4 purchased, sold, or otherwise disposed of. It shall be the duty
5 of every retail licensee to make sales records, copies of bills
6 of sale, and inventory at the close of each period for which a
7 report is required of all cigarettes on hand available upon
8 reasonable notice for the purpose of investigation and control
9 by the Department. Such records need not be maintained on the
10 licensed premises, but must be maintained in the State of
11 Illinois; however, if access is available electronically, the
12 records may be maintained out of state. However, all original
13 invoices or copies thereof covering purchases of cigarettes
14 must be retained on the licensed premises for a period of 90
15 days after such purchase, unless the Department has granted a
16 waiver in response to a written request in cases where records
17 are kept at a central business location within the State of
18 Illinois or in cases where records that are available
19 electronically are maintained out of state. The Department may
20 adopt rules that establish requirements, including record
21 forms and formats, for records required to be kept and
22 maintained by the retailer. The Department shall adopt rules
23 regarding the maintenance and accessibility of records located
24 out-of-State pursuant to the waiver provided under this Act.

25 For purposes of this Section, "records" means all data
26 maintained by the retailer, including data on paper, microfilm,

1 microfiche or any type of machine sensible data compilation.
2 Those books, records, papers, and documents shall be preserved
3 for a period of at least 3 years after the date of the
4 documents, or the date of the entries appearing in the records,
5 unless the Department, in writing, authorizes their
6 destruction or disposal at an earlier date. At all times during
7 the usual business hours of the day, any duly authorized agent
8 or employee of the Department may enter any place of business
9 of the retailer without a search warrant and may inspect the
10 premises to determine whether any of the provisions of this Act
11 are being violated. If such agent or employee is denied free
12 access or is hindered or interfered with in making such
13 examination as herein provided, the license of the retailer
14 shall be subject to suspension or revocation by the Department.
15 (Source: P.A. 98-1055, eff. 1-1-16.)

16 Section 10. The Tobacco Products Tax Act of 1995 is amended
17 by changing Sections 10-21, 10-25, and 10-35 as follows:

18 (35 ILCS 143/10-21)

19 (This Section may contain text from a Public Act with a
20 delayed effective date)

21 Sec. 10-21. Retailer's license. Beginning on January 1,
22 2016, no person may engage in business as a retailer of tobacco
23 products in this State without first having obtained a license
24 from the Department. Application for license shall be made to

1 the Department, by electronic means, in a form prescribed by
2 the Department. Each applicant for a license under this Section
3 shall furnish to the Department, in an electronic format
4 established by the Department, the following information:

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

6 (2) the address of the location at which the applicant
7 proposes to engage in business as a retailer of tobacco
8 products in this State;

9 (3) such other additional information as the
10 Department may lawfully require by its rules and
11 regulations.

12 The annual license fee payable to the Department for each
13 retailer's license shall be \$75. The fee will be deposited into
14 the Tax Compliance and Administration Fund and shall be used
15 for the cost of tobacco retail inspection and contraband
16 tobacco and tobacco smuggling with at least two-thirds of the
17 money being used for contraband tobacco and tobacco smuggling
18 operations and enforcement.

19 Each applicant for license shall pay such fee to the
20 Department at the time of submitting its application for
21 license to the Department. The Department shall require an
22 applicant for a license under this Section to electronically
23 file and pay the fee.

24 A separate annual license fee shall be paid for each place
25 of business at which a person who is required to procure a
26 retailer's license under this Section proposes to engage in

1 business as a retailer in Illinois under this Act.

2 The following are ineligible to receive a retailer's
3 license under this Act:

4 (1) a person who has been convicted of a felony under
5 any federal or State law for smuggling cigarettes or
6 tobacco products or tobacco tax evasion, if the Department,
7 after investigation and a hearing if requested by the
8 applicant, determines that such person has not been
9 sufficiently rehabilitated to warrant the public trust;
10 and

11 (2) a corporation, if any officer, manager or director
12 thereof, or any stockholder or stockholders owning in the
13 aggregate more than 5% of the stock of such corporation,
14 would not be eligible to receive a license under this Act
15 for any reason.

16 The Department, upon receipt of an application and license
17 fee, in proper form, from a person who is eligible to receive a
18 retailer's license under this Act, shall issue to such
19 applicant a license in form as prescribed by the Department,
20 which license shall permit the applicant to which it is issued
21 to engage in business as a retailer under this Act at the place
22 shown in his application. All licenses issued by the Department
23 under this Section shall be valid for a period not to exceed
24 one year after issuance unless sooner revoked, canceled or
25 suspended as provided in this Act. No license issued under this
26 Section is transferable or assignable. Such license shall be

1 conspicuously displayed in the place of business conducted by
2 the licensee in Illinois under such license. A person who
3 obtains a license as a retailer who ceases to do business as
4 specified in the license, or who never commenced business, ~~or~~
5 ~~who obtains a distributor's license,~~ or whose license is
6 suspended or revoked, shall immediately surrender the license
7 to the Department. The Department shall not issue a license to
8 a retailer unless the retailer is also validly registered under
9 the Retailers Occupation Tax Act.

10 A retailer as defined under this Act need not obtain an
11 additional license under this Act, but shall be deemed to be
12 sufficiently licensed by virtue of his being properly licensed
13 as a retailer under Section 4g of the Cigarette Tax Act.

14 Any person aggrieved by any decision of the Department
15 under this Section ~~subsection~~ may, within 30 days after notice
16 of the decision, protest and request a hearing. Upon receiving
17 a request for a hearing, the Department shall give notice to
18 the person requesting the hearing of the time and place fixed
19 for the hearing and shall hold a hearing in conformity with the
20 provisions of this Act and then issue its final administrative
21 decision in the matter to that person. In the absence of a
22 protest and request for a hearing within 30 days, the
23 Department's decision shall become final without any further
24 determination being made or notice given.

25 (Source: P.A. 98-1055, eff. 1-1-16; revised 12-1-14.)

1 (35 ILCS 143/10-25)

2 (Text of Section before amendment by P.A. 98-1055)

3 Sec. 10-25. License actions. The Department may, after
4 notice and a hearing, revoke, cancel, or suspend the license of
5 any distributor who violates any of the provisions of this Act.
6 The notice shall specify the alleged violation or violations
7 upon which the revocation, cancellation, or suspension
8 proceeding is based.

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

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

24 (Source: P.A. 92-737, eff. 7-25-02.)

25 (Text of Section after amendment by P.A. 98-1055)

1 Sec. 10-25. License actions.

2 (a) The Department may, after notice and a hearing, revoke,
3 cancel, or suspend the license of any distributor or retailer
4 who violates any of the provisions of this Act. The notice
5 shall specify the alleged violation or violations upon which
6 the revocation, cancellation, or suspension proceeding is
7 based.

8 (b) The Department may revoke, cancel, or suspend the
9 license of any distributor for a violation of the Tobacco
10 Product Manufacturers' Escrow Enforcement Act as provided in
11 Section 20 of that Act.

12 (c) If the retailer has a training program that facilitates
13 compliance with minimum-age tobacco laws, the Department shall
14 suspend for 3 days the license of that retailer for a fourth or
15 subsequent violation of the Prevention of Tobacco Use by Minors
16 and Sale and Distribution of Tobacco Products Act, as provided
17 in subsection (a) of Section 2 of that Act. For the purposes of
18 this Section, any violation of subsection (a) of Section 2 of
19 the Prevention of Tobacco Use by Minors and Sale and
20 Distribution of Tobacco Products Act occurring at the
21 retailer's licensed location, during a 24-month period, shall
22 be counted as a violation against the retailer.

23 If the retailer does not have a training program that
24 facilitates compliance with minimum-age tobacco laws, the
25 Department shall suspend for 3 days the license of that
26 retailer for a second violation of the Prevention of Tobacco

1 Use by Minors and Sale and Distribution of Tobacco Products
2 Act, as provided in subsection (a-5) of Section 2 of that Act.

3 If the retailer does not have a training program that
4 facilitates compliance with minimum-age tobacco laws, the
5 Department shall suspend for 7 days the license of that
6 retailer for a third violation of the Prevention of Tobacco Use
7 by Minors and Sale and Distribution of Tobacco Products Act, as
8 provided in subsection (a-5) of Section 2 of that Act.

9 If the retailer does not have a training program that
10 facilitates compliance with minimum-age tobacco laws, the
11 Department shall suspend for 30 days the license of a retailer
12 for a fourth or subsequent violation of the Prevention of
13 Tobacco Use by Minors and Sale and Distribution of Tobacco
14 Products Act, as provided in subsection (a-5) of Section 2 of
15 that Act.

16 A training program that facilitates compliance with
17 minimum-age tobacco laws must include at least the following
18 elements: (i) it must explain that only individuals displaying
19 valid identification demonstrating that they are 18 years of
20 age or older shall be eligible to purchase cigarettes or
21 tobacco products and † (ii) it must explain where a clerk can
22 check identification for a date of birth; ~~and (iii) it must~~
23 ~~explain the penalties that a clerk and retailer are subject to~~
24 ~~for violations of the Prevention of Tobacco Use by Minors and~~
25 ~~Sale and Distribution of Tobacco Products Act. The training may~~
26 be conducted electronically. Each retailer that has a training

1 program shall require each employee who completes the training
2 program to sign a form attesting that the employee has received
3 and completed tobacco training. The form shall be kept in the
4 employee's file and may be used to provide proof of training.

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

16 (Source: P.A. 98-1055, eff. 1-1-16.)

17 (35 ILCS 143/10-35)

18 (Text of Section before amendment by P.A. 98-1055)

19 Sec. 10-35. Record keeping. Every distributor, as defined
20 in Section 10-5, shall keep complete and accurate records of
21 tobacco products held, purchased, manufactured, brought in or
22 caused to be brought in from without the State, and tobacco
23 products sold, or otherwise disposed of, and shall preserve and
24 keep all invoices, bills of lading, sales records, and copies
25 of bills of sale, the wholesale price for tobacco products sold

1 or otherwise disposed of, an inventory of tobacco products
2 prepared as of December 31 of each year or as of the last day of
3 the distributor's fiscal year if he or she files federal income
4 tax returns on the basis of a fiscal year, and other pertinent
5 papers and documents relating to the manufacture, purchase,
6 sale, or disposition of tobacco products. Books, records,
7 papers, and documents that are required by this Act to be kept
8 shall, at all times during the usual business hours of the day,
9 be subject to inspection by the Department or its duly
10 authorized agents and employees. The books, records, papers,
11 and documents for any period with respect to which the
12 Department is authorized to issue a notice of tax liability
13 shall be preserved until the expiration of that period.

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

15 (Text of Section after amendment by P.A. 98-1055)

16 Sec. 10-35. Record keeping.

17 (a) Every distributor, as defined in Section 10-5, shall
18 keep complete and accurate records of tobacco products held,
19 purchased, manufactured, brought in or caused to be brought in
20 from without the State, and tobacco products sold, or otherwise
21 disposed of, and shall preserve and keep all invoices, bills of
22 lading, sales records, and copies of bills of sale, the
23 wholesale price for tobacco products sold or otherwise disposed
24 of, an inventory of tobacco products prepared as of December 31
25 of each year or as of the last day of the distributor's fiscal

1 year if he or she files federal income tax returns on the basis
2 of a fiscal year, and other pertinent papers and documents
3 relating to the manufacture, purchase, sale, or disposition of
4 tobacco products. Every sales invoice issued by a licensed
5 distributor to a retailer in this State shall contain the
6 distributor's Tobacco Products License number unless the
7 distributor has been granted a waiver by the Department in
8 response to a written request in cases where (i) the
9 distributor sells cigarettes only to retailers that are
10 wholly-owned by the distributor or owned by a wholly-owned
11 subsidiary of the distributor; (ii) the retailer obtains
12 cigarettes only from the distributor requesting the waiver; and
13 (iii) the distributor affixes the tax stamps to the original
14 packages of cigarettes sold to the retailer. The distributor
15 shall file a written request with the Department, and, if the
16 Department determines that the distributor meets the
17 conditions for a waiver, the Department shall grant the waiver.

18 (b) Every retailer, as defined in Section 10-5, shall keep
19 complete and accurate records of tobacco products held,
20 purchased, sold, or otherwise disposed of, and shall preserve
21 and keep all invoices, bills of lading, sales records, and
22 copies of bills of sale, returns and other pertinent papers and
23 documents relating to the purchase, sale, or disposition of
24 tobacco products. Such records need not be maintained on the
25 licensed premises, but must be maintained in the State of
26 Illinois; however, if access is available electronically, the

1 records may be maintained out of state. However, all original
2 invoices or copies thereof covering purchases of tobacco
3 products must be retained on the licensed premises for a period
4 of 90 days after such purchase, unless the Department has
5 granted a waiver in response to a written request in cases
6 where records are kept at a central business location within
7 the State of Illinois or in cases where records that are
8 available electronically are maintained out of state. The
9 Department shall adopt rules regarding the maintenance and
10 accessibility of records located out-of-State pursuant to the
11 waiver provided under this Act.

12 (c) Books, records, papers, and documents that are required
13 by this Act to be kept shall, at all times during the usual
14 business hours of the day, be subject to inspection by the
15 Department or its duly authorized agents and employees. The
16 books, records, papers, and documents for any period with
17 respect to which the Department is authorized to issue a notice
18 of tax liability shall be preserved until the expiration of
19 that period.

20 (Source: P.A. 98-1055, eff. 1-1-16.)

21 Section 15. The Prevention of Tobacco Use by Minors and
22 Sale and Distribution of Tobacco Products Act is amended by
23 changing Section 2 as follows:

24 (720 ILCS 675/2) (from Ch. 23, par. 2358)

1 (Text of Section before amendment by P.A. 98-1055)

2 Sec. 2. Penalties.

3 (a) Any person who violates subsection (a), (a-5), or (a-6)
4 of Section 1 or Section 1.5 of this Act is guilty of a petty
5 offense and for the first offense shall be fined \$200, \$400 for
6 the second offense in a 12-month period, and \$600 for the third
7 or any subsequent offense in a 12-month period.

8 (b) If a minor violates subsection (a-7) of Section 1 he or
9 she is guilty of a petty offense and the court may impose a
10 sentence of 15 hours of community service or a fine of \$25 for
11 a first violation.

12 (c) A second violation by a minor of subsection (a-7) of
13 Section 1 that occurs within 12 months after the first
14 violation is punishable by a fine of \$50 and 25 hours of
15 community service.

16 (d) A third or subsequent violation by a minor of
17 subsection (a-7) of Section 1 that occurs within 12 months
18 after the first violation is punishable by a \$100 fine and 30
19 hours of community service.

20 (e) Any second or subsequent violation not within the
21 12-month time period after the first violation is punishable as
22 provided for a first violation.

23 (f) If a minor is convicted of or placed on supervision for
24 a violation of subsection (a-7) of Section 1, the court may, in
25 its discretion, and upon recommendation by the State's
26 Attorney, order that minor and his or her parents or legal

1 guardian to attend a smoker's education or youth diversion
2 program if that program is available in the jurisdiction where
3 the offender resides. Attendance at a smoker's education or
4 youth diversion program shall be time-credited against any
5 community service time imposed for any first violation of
6 subsection (a-7) of Section 1. In addition to any other penalty
7 that the court may impose for a violation of subsection (a-7)
8 of Section 1, the court, upon request by the State's Attorney,
9 may in its discretion require the offender to remit a fee for
10 his or her attendance at a smoker's education or youth
11 diversion program.

12 (g) For purposes of this Section, "smoker's education
13 program" or "youth diversion program" includes, but is not
14 limited to, a seminar designed to educate a person on the
15 physical and psychological effects of smoking tobacco products
16 and the health consequences of smoking tobacco products that
17 can be conducted with a locality's youth diversion program.

18 (h) All moneys collected as fines for violations of
19 subsection (a), (a-5), (a-6), or (a-7) of Section 1 shall be
20 distributed in the following manner:

21 (1) one-half of each fine shall be distributed to the
22 unit of local government or other entity that successfully
23 prosecuted the offender; and

24 (2) one-half shall be remitted to the State to be used
25 for enforcing this Act.

26 (Source: P.A. 98-350, eff. 1-1-14.)

1 (Text of Section after amendment by P.A. 98-1055)

2 Sec. 2. Penalties.

3 (a) Any person who violates subsection (a) or (a-5) of
4 Section 1 or Section 1.5 of this Act is guilty of a petty
5 offense. For the first offense in a 24-month period, the person
6 shall be fined \$200 if his or her employer has a training
7 program that facilitates compliance with minimum-age tobacco
8 laws. For the second offense in a 24-month period, the person
9 shall be fined \$400 if his or her employer has a training
10 program that facilitates compliance with minimum-age tobacco
11 laws. For the third offense in a 24-month period, the person
12 shall be fined \$600 if his or her employer has a training
13 program that facilitates compliance with minimum-age tobacco
14 laws. For the fourth or subsequent offense in a 24-month
15 period, the person shall be fined \$800 if his or her employer
16 has a training program that facilitates compliance with
17 minimum-age tobacco laws. For the purposes of this subsection,
18 the 24-month period shall begin with the person's first
19 violation of the Act. The penalties in this subsection are in
20 addition to any other penalties prescribed under the Cigarette
21 Tax Act and the Tobacco Products Tax Act of 1995.

22 (a-5) Any person who violates subsection (a) or (a-5) of
23 Section 1 or Section 1.5 of this Act is guilty of a petty
24 offense. For the first offense, the retailer shall be fined
25 \$200 if it does not have a training program that facilitates

1 compliance with minimum-age tobacco laws. For the second
2 offense, the retailer shall be fined \$400 if it does not have a
3 training program that facilitates compliance with minimum-age
4 tobacco laws. For the third offense, the retailer shall be
5 fined \$600 if it does not have a training program that
6 facilitates compliance with minimum-age tobacco laws. For the
7 fourth or subsequent offense in a 24-month period, the retailer
8 shall be fined \$800 if it does not have a training program that
9 facilitates compliance with minimum-age tobacco laws. For the
10 purposes of this subsection, the 24-month period shall begin
11 with the person's first violation of the Act. The penalties in
12 this subsection are in addition to any other penalties
13 prescribed under the Cigarette Tax Act and the Tobacco Products
14 Tax Act of 1995.

15 (a-6) For the purpose of this Act, a training program that
16 facilitates compliance with minimum-age tobacco laws must
17 include at least the following elements: (i) it must explain
18 that only individuals displaying valid identification
19 demonstrating that they are 18 years of age or older shall be
20 eligible to purchase cigarettes or tobacco products and ~~†~~ (ii)
21 it must explain where a clerk can check identification for a
22 date of birth; ~~and (iii) it must explain the penalties that a~~
23 ~~clerk and retailer are subject to for violations of the~~
24 ~~Prevention of Tobacco Use by Minors and Sale and Distribution~~
25 ~~of Tobacco Products Act. The training may be conducted~~
26 electronically. Each retailer that has a training program shall

1 require each employee who completes the training program to
2 sign a form attesting that the employee has received and
3 completed tobacco training. The form shall be kept in the
4 employee's file and may be used to provide proof of training.

5 (b) If a minor violates subsection (a-7) of Section 1 he or
6 she is guilty of a petty offense and the court may impose a
7 sentence of 25 hours of community service and a fine of \$50 for
8 a first violation. If a minor violates subsection (a-6) of
9 Section 1, he or she is guilty of a Class A misdemeanor.

10 (c) A second violation by a minor of subsection (a-7) of
11 Section 1 that occurs within 12 months after the first
12 violation is punishable by a fine of \$75 and 50 hours of
13 community service.

14 (d) A third or subsequent violation by a minor of
15 subsection (a-7) of Section 1 that occurs within 12 months
16 after the first violation is punishable by a \$200 fine and 50
17 hours of community service.

18 (e) Any second or subsequent violation not within the
19 12-month time period after the first violation is punishable as
20 provided for a first violation.

21 (f) If a minor is convicted of or placed on supervision for
22 a violation of subsection (a-6) or (a-7) of Section 1, the
23 court may, in its discretion, and upon recommendation by the
24 State's Attorney, order that minor and his or her parents or
25 legal guardian to attend a smoker's education or youth
26 diversion program if that program is available in the

1 jurisdiction where the offender resides. Attendance at a
2 smoker's education or youth diversion program shall be
3 time-credited against any community service time imposed for
4 any first violation of subsection (a-7) of Section 1. In
5 addition to any other penalty that the court may impose for a
6 violation of subsection (a-7) of Section 1, the court, upon
7 request by the State's Attorney, may in its discretion require
8 the offender to remit a fee for his or her attendance at a
9 smoker's education or youth diversion program.

10 (g) For purposes of this Section, "smoker's education
11 program" or "youth diversion program" includes, but is not
12 limited to, a seminar designed to educate a person on the
13 physical and psychological effects of smoking tobacco products
14 and the health consequences of smoking tobacco products that
15 can be conducted with a locality's youth diversion program.

16 (h) All moneys collected as fines for violations of
17 subsection (a), (a-5), (a-6), or (a-7) of Section 1 shall be
18 distributed in the following manner:

19 (1) one-half of each fine shall be distributed to the
20 unit of local government or other entity that successfully
21 prosecuted the offender; and

22 (2) one-half shall be remitted to the State to be used
23 for enforcing this Act.

24 Any violation of subsection (a) or (a-5) of Section 1 or
25 Section 1.5 shall be reported to the Department of Revenue
26 within 7 business days.

1 (Source: P.A. 98-350, eff. 1-1-14; 98-1055, eff. 1-1-16.)

2 Section 95. No acceleration or delay. Where this Act makes
3 changes in a statute that is represented in this Act by text
4 that is not yet or no longer in effect (for example, a Section
5 represented by multiple versions), the use of that text does
6 not accelerate or delay the taking effect of (i) the changes
7 made by this Act or (ii) provisions derived from any other
8 Public Act.