



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB0512

Introduced 2/23/2021, by Sen. Julie A. Morrison

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Preventing Youth Vaping Act. Provides that it is unlawful for a person to sell or distribute specified electronic cigarettes and electronic cigarette packaging. Contains advertising and manufacturing requirements. Provides civil and criminal penalties. Provides that the Department of Agriculture, Department of Revenue, Department of Public Health, and Illinois State Police shall have equal and joint authority to administer and enforce the Act, may adopt rules, and may inspect any business that manufactures, transports, or distributes electronic cigarettes to ensure compliance with the Act. Amends the Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act. Removes language providing that an "electronic cigarette" does not include a tobacco product and that a "tobacco product" does not include an electronic cigarette. Provides prohibitions regarding the sale of electronic cigarettes and allows specified peace officers to seize any tobacco products or electronic cigarettes involved in a specified violation. Makes other changes. Amends the Prevention of Cigarette Sales to Persons under 21 Years of Age Act. Changes the Act's title to the Prevention of Cigarette and Electronic Cigarette Sales to Persons under 21 Years of Age Act. Defines "electronic cigarette" and refers to electronic cigarettes in conjunction with cigarettes. Makes other changes. Effective immediately.

LRB102 14603 CPF 19956 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Preventing Youth Vaping Act.

6 Section 5. Definitions. In this Act:

7 "Additive" means any substance the intended use of which  
8 results or may reasonably be expected to result, directly or  
9 indirectly, in it becoming a component or otherwise affecting  
10 the characteristic of any tobacco product, including, but not  
11 limited to, any substances intended for use as a flavoring or  
12 coloring or in producing, manufacturing, packing, processing,  
13 preparing, treating, packaging, transporting, or holding.  
14 "Additive" does not include tobacco or a pesticide chemical  
15 residue in or on raw tobacco or a pesticide chemical.

16 "Consumer" means an individual who acquires or seeks to  
17 acquire electronic cigarettes for personal use.

18 "Distributor" means a person who sells, offers for sale,  
19 or transfers any tobacco, electronic cigarette, or tobacco  
20 product for resale and not for use or consumption.

21 "Distributor" includes a distributor as defined in Section 1  
22 of the Cigarette Tax Act, Section 1 of the Cigarette Use Tax  
23 Act, and Section 10-5 of the Tobacco Products Tax Act of 1995.

1 "Electronic cigarette" means:

2 (1) any device that employs a battery or other  
3 mechanism to heat a solution or substance to produce a  
4 vapor or aerosol intended for inhalation;

5 (2) any cartridge or container of a solution or  
6 substance intended to be used with or in the device or to  
7 refill the device; or

8 (3) any solution or substance, whether or not it  
9 contains nicotine, intended for use in the device.

10 "Electronic cigarette" includes, but is not limited to,  
11 any electronic nicotine delivery system, electronic cigar,  
12 electronic cigarillo, electronic pipe, electronic hookah, vape  
13 pen, or similar product or device, and any component, part, or  
14 accessory of a device used during the operation of the device  
15 even if the part or accessory was sold separately. "Electronic  
16 cigarette" does not include: cigarettes, as defined in Section  
17 1 of the Cigarette Tax Act; any product approved by the United  
18 States Food and Drug Administration for sale as a smoking  
19 cessation product, a tobacco dependence product, or for other  
20 medical purposes that is marketed and sold solely for that  
21 approved purpose; any asthma inhaler prescribed by a physician  
22 for that condition that is marketed and sold solely for that  
23 approved purpose; or any cannabis product sold by a dispensing  
24 organization pursuant to the Cannabis Regulation and Tax Act  
25 or the Compassionate Use of Medical Cannabis Program Act.

26 "Manufacturer" means any person, wherever resident or

1 located, who manufactures and sells tobacco products.  
2 "Manufacturer" does not include a person who makes,  
3 manufactures, or fabricates tobacco products as a part of a  
4 correctional industries program for sale to persons  
5 incarcerated in penal institutions or resident patients of a  
6 State-operated mental health facility.

7 "Modified risk tobacco product" means any tobacco product  
8 that is sold or distributed to reduce harm or the risk of  
9 tobacco related disease associated with commercially marketed  
10 tobacco products.

11 "Person" means any individual, corporation, partnership,  
12 limited liability company, association, or other organization  
13 that engages in any for-profit or not-for-profit activities.

14 "Retailer" means a person who engages in this State in the  
15 sale of or offers for sale electronic cigarettes for use or  
16 consumption and not for resale in any form. "Retailer"  
17 includes a retailer as defined in Section 1 of the Cigarette  
18 Tax Act and Section 10-5 of the Tobacco Products Tax Act of  
19 1995.

20 "Secondary distributor" has the same meaning as defined in  
21 Section 1 of the Cigarette Tax Act and Section 1 of the  
22 Cigarette Use Tax Act.

23 "Tobacco product" has the same meaning as defined in  
24 Section 10-5 of the Tobacco Products Tax Act of 1995.

25 "Vapor product" means any noncombustible product that  
26 employs a heating element, battery, electronic circuit, or

1 other means, regardless of shape or size, that can be used to  
2 produce vapor from nicotine in a solution. "Vapor product"  
3 includes, but is not limited to, any vapor cartridge or other  
4 container of nicotine in a solution or other form that may be  
5 used with or in an electronic cigarette, electronic cigar,  
6 electronic cigarillo, electronic pipe, or similar product or  
7 device and any component, part, or accessory of a device used  
8 during the operation of the device, even if the part or  
9 accessory was sold separately.

10 Section 10. Enforcement; rulemaking.

11 (a) The Department of Agriculture, Department of Revenue,  
12 Department of Public Health, and Illinois State Police shall  
13 have equal and joint authority to administer and enforce this  
14 Act and may adopt rules for the purpose of administering and  
15 enforcing this Act.

16 (b) The Department of Agriculture, Department of Revenue,  
17 Department of Public Health, and Illinois State Police may  
18 inspect any business that sells, manufactures, transports, or  
19 distributes electronic cigarettes in the State to ensure  
20 compliance with this Act.

21 Section 15. Prohibitions.

22 (a) It is unlawful for a person to do any of the following:

23 (1) To sell or distribute in this State; to acquire,  
24 hold, own, possess, or transport, for sale or distribution

1 in this State; or to import, or cause to be imported into  
2 this State for sale or distribution in this State:

3 (A) any electronic cigarette with packaging that:

4 (i) bears any statement, label, stamp,  
5 sticker, or notice indicating that the  
6 manufacturer did not intend the electronic  
7 cigarette to be sold, distributed, or used in the  
8 United States, including, but not limited to,  
9 labels stating "For Export Only", "U.S. Tax  
10 Exempt", "For Use Outside U.S.", or similar  
11 wording; or

12 (ii) does not comply with:

13 (I) all requirements imposed by or  
14 pursuant to federal law regarding warnings and  
15 other information on packages of electronic  
16 cigarettes manufactured, packaged, or imported  
17 for sale, distribution, or use in the United  
18 States; and

19 (II) all federal trademark and copyright  
20 laws; and

21 (B) any electronic cigarette that the person  
22 otherwise knows or has reason to know the manufacturer  
23 did not intend to be sold, distributed, or used in the  
24 United States.

25 (2) To alter the packaging of an electronic cigarette,  
26 prior to sale or distribution to the ultimate consumer, so

1 as to remove, conceal, or obscure any statement, label,  
2 stamp, sticker, or notice required under this Section or  
3 federal law.

4 (3) To affix any stamp required under this Act to the  
5 packaging of any electronic cigarettes described in  
6 subparagraph (A) of paragraph (1) or altered in violation  
7 of subparagraph (A) of paragraph (1).

8 (4) To sell in any one transaction more than 2  
9 electronic cigarettes, 4 prepackaged cartridges of  
10 electronic cigarette solution, or 100 milliliters of  
11 electronic cigarette solution to a consumer.

12 (5) To adulterate an electronic cigarette for sale in  
13 this State. An electronic cigarette is adulterated if:

14 (A) it consists in whole or in part of any filthy,  
15 putrid, or decomposed substance, or is otherwise  
16 contaminated by any added poisonous or deleterious  
17 substance that may render the product injurious to  
18 health;

19 (B) it is held or packaged in containers composed,  
20 in whole or in part, of any poisonous or deleterious  
21 substance that may render the contents injurious to  
22 health; or

23 (C) it is required by 21 U.S.C. 387j(a) to have  
24 premarket review and does not have an order in effect  
25 under 21 U.S.C. 387j(c)(1)(A)(i) or is in violation of  
26 an order under 21 U.S.C. 387j(c)(1)(A).

1           (b) A distributor, secondary distributor, retailer, or  
2 person who violates this Section shall be guilty of a Class 4  
3 felony.

4           Section 20. Additives. An electronic cigarette for sale in  
5 this State shall not include the following additives:

- 6           (1) polyethylene glycol (PEG);  
7           (2) vitamin E acetate; or  
8           (3) medium chain triglycerides (MCT oil).

9           Section 25. Advertising.

10          (a) A manufacturer, distributor, or retailer may not  
11 advertise, market, or promote an electronic cigarette as a  
12 modified risk tobacco product unless it has been designated as  
13 a modified risk tobacco product by the United States Food and  
14 Drug Administration.

15          (b) A manufacturer, distributor, or retailer may not  
16 advertise, market, or promote or advertise an electronic  
17 cigarette as providing smoking cessation benefits to consumers  
18 unless it has approval from the United States Food and Drug  
19 Administration to market its electronic cigarette as a medical  
20 product for such purpose.

21          (c) A manufacturer, distributor, or retailer may not  
22 advertise, market, or promote an electronic cigarette in a  
23 manner that includes fraudulent or misleading terms or  
24 statements.



1 (d) A manufacturer, distributor, or retailer may not  
2 advertise, market, or promote an electronic cigarette in a  
3 manner that:

4 (1) encourages persons under 21 years of age to use an  
5 electronic cigarette; or

6 (2) is attractive to persons under 21 years of age,  
7 including, but not limited to, inclusion of the following:

8 (A) cartoons;

9 (B) an image, character, or phrase that is similar  
10 to one popularly used to advertise to children; or

11 (C) a video game, movie, video, or animated  
12 television show known to appeal primarily to persons  
13 under 21 years of age.

14 Section 30. Manufacturer requirements.

15 (a) A manufacturer shall ensure that the label on an  
16 electronic cigarette container meets the nicotine  
17 addictiveness warning statement requirements under 21 CFR  
18 1143.3.

19 (b) A manufacturer, including, but not limited to, a  
20 manufacturer of a closed system vapor product, shall annually  
21 submit a report to the Attorney General setting forth:

22 (1) each new product that the manufacturer is  
23 producing and is sold in the State, with a list of the  
24 contents and ingredients by volume;

25 (2) whether the manufacturer has stopped producing

1 products previously produced and sold in the State; and  
2 (3) the milligrams per milliliter of nicotine in each  
3 product the manufacturer produces.

4 A report submitted under this subsection is confidential,  
5 and the Attorney General may not disclose it to another  
6 person. A manufacturer is not required to submit a report  
7 described under this subsection if the manufacturer submits to  
8 the Attorney General a certification, by October 1 of each  
9 year, that each of the manufacturer's vapor products sold in  
10 the State has been filed with the United States Food and Drug  
11 Administration.

12 (d) A manufacturer must annually provide the Attorney  
13 General with a list of the ingredients added in the  
14 manufacturing of electronic cigarettes.

15 Section 35. Violations.

16 (a) Upon a finding that a distributor, secondary  
17 distributor, retailer, or person has committed any of the  
18 conduct prohibited under this Act or any rule adopted under  
19 this Act, knowing or having reason to know that he or she has  
20 done so, the Department of Revenue may: revoke or suspend the  
21 license or licenses of the distributor, secondary distributor,  
22 retailer, or person pursuant to the procedures set forth in  
23 the Cigarette Tax Act, Cigarette Use Tax Act, or the Tobacco  
24 Products Tax Act of 1995; and impose on the distributor,  
25 secondary distributor, retailer, or person a civil penalty in

1 an amount not to exceed the greater of 500% of the retail value  
2 of the electronic cigarettes involved or \$10,000.

3 (b) Electronic cigarettes that are acquired in, held in,  
4 owned in, possessed in, transported within, imported into, or  
5 sold or distributed across this State in violation of this Act  
6 shall be deemed contraband under this Act and are subject to  
7 seizure and forfeiture as provided in subsection (g) of  
8 Section 1 of the Prevention of Tobacco Use by Persons under 21  
9 Years of Age and Sale and Distribution of Tobacco Products  
10 Act, and all such electronic cigarettes seized and forfeited  
11 shall be destroyed or maintained and used in an undercover  
12 capacity. Such electronic cigarettes shall be deemed  
13 contraband whether the violation of this Act is knowing or  
14 otherwise.

15 (c) The Attorney General may enforce violations of Section  
16 15 or 25 of this Act as an unlawful practice under the Consumer  
17 Fraud and Deceptive Business Practices Act.

18 Section 40. The Prevention of Tobacco Use by Persons under  
19 21 Years of Age and Sale and Distribution of Tobacco Products  
20 Act is amended by changing Section 1 as follows:

21 (720 ILCS 675/1) (from Ch. 23, par. 2357)

22 Sec. 1. Prohibition on sale of tobacco products,  
23 electronic cigarettes, and alternative nicotine products to  
24 persons under 21 years of age; prohibition on the distribution

1 of tobacco product samples, electronic cigarette samples, and  
2 alternative nicotine product samples to any person; use of  
3 identification cards; vending machines; lunch wagons;  
4 out-of-package sales.

5 (a) No person under 21 years of age shall buy any tobacco  
6 product, electronic cigarette, or alternative nicotine  
7 product. No person shall sell, buy for, distribute samples of  
8 or furnish any tobacco product, electronic cigarette, or any  
9 alternative nicotine product to any person under 21 years of  
10 age.

11 (a-5) No person under 16 years of age may sell any tobacco  
12 product, electronic cigarette, or alternative nicotine product  
13 at a retail establishment selling tobacco products, electronic  
14 cigarettes, or alternative nicotine products. This subsection  
15 does not apply to a sales clerk in a family-owned business  
16 which can prove that the sales clerk is in fact a son or  
17 daughter of the owner.

18 (a-5.1) Before selling, offering for sale, giving, or  
19 furnishing a tobacco product, electronic cigarette, or  
20 alternative nicotine product to another person, the person  
21 selling, offering for sale, giving, or furnishing the tobacco  
22 product, electronic cigarette, or alternative nicotine product  
23 shall verify that the person is at least 21 years of age by:

24 (1) examining from any person that appears to be under  
25 30 years of age a government-issued photographic  
26 identification that establishes the person to be 21 years

1 of age or older; or

2 (2) for sales of tobacco products, electronic  
3 cigarettes, or alternative nicotine products made through  
4 the Internet or other remote sales methods, performing an  
5 age verification through an independent, third party age  
6 verification service that compares information available  
7 from public records to the personal information entered by  
8 the person during the ordering process that establishes  
9 the person is 21 years of age or older.

10 (a-6) No person under 21 years of age in the furtherance or  
11 facilitation of obtaining any tobacco product, electronic  
12 cigarette, or alternative nicotine product shall display or  
13 use a false or forged identification card or transfer, alter,  
14 or deface an identification card.

15 (a-7) (Blank).

16 (a-8) A person shall not distribute without charge samples  
17 of any tobacco product to any other person, regardless of age,  
18 except for smokeless tobacco in an adult-only facility.

19 This subsection (a-8) does not apply to the distribution  
20 of a tobacco product, electronic cigarette, or alternative  
21 nicotine product sample in any adult-only facility.

22 (a-9) For the purpose of this Section:

23 "Adult-only facility" means a facility or restricted  
24 area (whether open-air or enclosed) where the operator  
25 ensures or has a reasonable basis to believe (such as by  
26 checking identification as required under State law, or by

1 checking the identification of any person appearing to be  
2 under the age of 30) that no person under legal age is  
3 present. A facility or restricted area need not be  
4 permanently restricted to persons under 21 years of age to  
5 constitute an adult-only facility, provided that the  
6 operator ensures or has a reasonable basis to believe that  
7 no person under 21 years of age is present during the event  
8 or time period in question.

9 "Alternative nicotine product" means a product or  
10 device not consisting of or containing tobacco that  
11 provides for the ingestion into the body of nicotine,  
12 whether by chewing, smoking, absorbing, dissolving,  
13 inhaling, snorting, sniffing, or by any other means.  
14 "Alternative nicotine product" does not include:  
15 cigarettes as defined in Section 1 of the Cigarette Tax  
16 Act and tobacco products as defined in Section 10-5 of the  
17 Tobacco Products Tax Act of 1995; tobacco product and  
18 electronic cigarette as defined in this Section; or any  
19 product approved by the United States Food and Drug  
20 Administration for sale as a tobacco cessation product, as  
21 a tobacco dependence product, or for other medical  
22 purposes, and is being marketed and sold solely for that  
23 approved purpose.

24 "Electronic cigarette" means:

25 (1) any device that employs a battery or other  
26 mechanism to heat a solution or substance to produce a

1 vapor or aerosol intended for inhalation;

2 (2) any cartridge or container of a solution or  
3 substance intended to be used with or in the device or  
4 to refill the device; or

5 (3) any solution or substance, whether or not it  
6 contains nicotine intended for use in the device.

7 "Electronic cigarette" includes, but is not limited  
8 to, any electronic nicotine delivery system, electronic  
9 cigar, electronic cigarillo, electronic pipe, electronic  
10 hookah, vape pen, or similar product or device, ~~and~~ any  
11 components or parts that can be used to build the product  
12 or device, and any component, part, or accessory of a  
13 device used during the operation of the device, even if  
14 the part or accessory was sold separately. "Electronic  
15 cigarette" does not include: cigarettes as defined in  
16 Section 1 of the Cigarette Tax Act ~~and tobacco products as~~  
17 ~~defined in Section 10 5 of the Tobacco Products Tax Act of~~  
18 ~~1995~~; tobacco product and alternative nicotine product as  
19 defined in this Section; any product approved by the  
20 United States Food and Drug Administration for sale as a  
21 tobacco cessation product, as a tobacco dependence  
22 product, or for other medical purposes, and is being  
23 marketed and sold solely for that approved purpose; any  
24 asthma inhaler prescribed by a physician for that  
25 condition and is being marketed and sold solely for that  
26 approved purpose; or any cannabis ~~therapeutic~~ product sold

1 by a dispensing organization pursuant to the Cannabis  
2 Regulation and Tax Act or ~~approved for use under the~~  
3 Compassionate Use of Medical Cannabis ~~Pilot~~ Program Act.

4 "Listed or nondiscounted price" means the price listed  
5 for an electronic cigarette on its package or on any  
6 related shelving, posting, advertising, or display at the  
7 location where the electronic cigarette is sold or offered  
8 for sale to consumers, including all applicable taxes.

9 "Lunch wagon" means a mobile vehicle designed and  
10 constructed to transport food and from which food is sold  
11 to the general public.

12 "Nicotine" means any form of the chemical nicotine,  
13 including any salt or complex, regardless of whether the  
14 chemical is naturally or synthetically derived.

15 "Price reduction instrument" means any coupon,  
16 voucher, rebate, card, paper, note, form, statement,  
17 ticket, image, or other issue whether in paper, digital,  
18 or other form used for commercial purposes to receive an  
19 article, product, service, or accommodation without charge  
20 or for less than the listed or nondiscounted price.

21 "Tobacco product" means any product containing or made  
22 from tobacco that is intended for human consumption,  
23 whether smoked, heated, chewed, absorbed, dissolved,  
24 inhaled, snorted, sniffed, or ingested by any other means,  
25 including, but not limited to, cigarettes, cigars, little  
26 cigars, chewing tobacco, pipe tobacco, snuff, snus, and



1 any other smokeless tobacco product which contains tobacco  
2 that is finely cut, ground, powdered, or leaf and intended  
3 to be placed in the oral cavity. "Tobacco product"  
4 includes any component, part, or accessory of a tobacco  
5 product, whether or not sold separately. "Tobacco product"  
6 does not include: an ~~electronic cigarette~~ and alternative  
7 nicotine product as defined in this Section; or any  
8 product that has been approved by the United States Food  
9 and Drug Administration for sale as a tobacco cessation  
10 product, as a tobacco dependence product, or for other  
11 medical purposes, and is being marketed and sold solely  
12 for that approved purpose.

13 (b) Tobacco products, electronic cigarettes, and  
14 alternative nicotine products may be sold through a vending  
15 machine only if such tobacco products, electronic cigarettes,  
16 and alternative nicotine products are not placed together with  
17 any non-tobacco product, other than matches, in the vending  
18 machine and the vending machine is in any of the following  
19 locations:

20 (1) (Blank).

21 (2) Places to which persons under 21 years of age are  
22 not permitted access at any time.

23 (3) Places where alcoholic beverages are sold and  
24 consumed on the premises and vending machine operation is  
25 under the direct supervision of the owner or manager.

26 (4) (Blank).

1 (5) (Blank).

2 (c) (Blank).

3 (d) The sale or distribution by any person of a tobacco  
4 product as defined in this Section, including but not limited  
5 to a single or loose cigarette, that is not contained within a  
6 sealed container, pack, or package as provided by the  
7 manufacturer, which container, pack, or package bears the  
8 health warning required by federal law, is prohibited.

9 (e) It is not a violation of this Act for a person under 21  
10 years of age to purchase a tobacco product, electronic  
11 cigarette, or alternative nicotine product if the person under  
12 the age of 21 purchases or is given the tobacco product,  
13 electronic cigarette, or alternative nicotine product in any  
14 of its forms from a retail seller of tobacco products,  
15 electronic cigarettes, or alternative nicotine products or an  
16 employee of the retail seller pursuant to a plan or action to  
17 investigate, patrol, or otherwise conduct a "sting operation"  
18 or enforcement action against a retail seller of tobacco  
19 products, electronic cigarettes, or alternative nicotine  
20 products or a person employed by the retail seller of tobacco  
21 products, electronic cigarettes, or alternative nicotine  
22 products or on any premises authorized to sell tobacco  
23 products, electronic cigarettes, or alternative nicotine  
24 products to determine if tobacco products, electronic  
25 cigarettes, or alternative nicotine products are being sold or  
26 given to persons under 21 years of age if the "sting operation"

1 or enforcement action is approved by, conducted by, or  
2 conducted on behalf of the Department of State Police, the  
3 county sheriff, a municipal police department, the Department  
4 of Revenue, the Department of Public Health, or a local health  
5 department. The results of any sting operation or enforcement  
6 action, including the name of the clerk, shall be provided to  
7 the retail seller within 7 business days.

8 (f) No person shall:

9 (1) honor or accept a price reduction instrument in  
10 any transaction related to the sale of electronic  
11 cigarettes to a consumer;

12 (2) sell or offer for sale an electronic cigarette to  
13 a consumer through a multi-package discount or otherwise  
14 provide to a consumer any electronic cigarette for less  
15 than the listed or nondiscounted price in exchange for the  
16 purchase of any other electronic cigarette by the  
17 consumer;

18 (3) sell, offer for sale, or otherwise provide any  
19 product other than electronic cigarettes to a consumer for  
20 less than the listed or nondiscounted price in exchange  
21 for the purchase of electronic cigarettes by the consumer;  
22 or

23 (4) sell, offer for sale, or otherwise provide  
24 electronic cigarettes to a consumer for less than the  
25 listed nondiscounted price.

26 (g) Any peace officer or duly authorized member of the

1 Department of Revenue or the Department of Public Health, upon  
2 discovering a violation of subsection (a), (a-5), (a-5.1),  
3 (a-8), (b), or (d) of this Section or a violation of the  
4 Preventing Youth Vaping Act, may seize any tobacco products or  
5 electronic cigarettes of the specific type involved in that  
6 violation that are located at that place of business. The  
7 tobacco products or electronic cigarettes so seized are  
8 subject to confiscation and forfeiture.

9 (h) If, within 60 days after any seizure under subsection  
10 (g), a person having any property interest in the seized  
11 property is charged with an offense under this Section or a  
12 violation of the Preventing Youth Vaping Act, the court that  
13 renders judgment upon the charge shall, within 30 days after  
14 the judgment, conduct a forfeiture hearing to determine  
15 whether the seized tobacco products or electronic cigarettes  
16 were part of the inventory located at the place of business  
17 when a violation of subsection (a), (a-5), (a-5.1), (a-8),  
18 (b), or (d) of this Section or a violation of the Preventing  
19 Youth Vaping Act occurred and whether any seized tobacco  
20 products or electronic cigarettes were of a type involved in  
21 that violation. The hearing shall be commenced by a written  
22 petition by the State, which shall include material  
23 allegations of fact, the name and address of every person  
24 determined by the State to have any property interest in the  
25 seized property, a representation that written notice of the  
26 date, time, and place of the hearing has been mailed to every

1 such person by certified mail at least 10 days before the date,  
2 and a request for forfeiture. Every such person may appear as a  
3 party and present evidence at the hearing. The quantum of  
4 proof required shall be a preponderance of the evidence, and  
5 the burden of proof shall be on the State. If the court  
6 determines that the seized property was subject to forfeiture,  
7 an order of forfeiture and disposition of the seized property  
8 shall be entered and the property shall be received by the  
9 prosecuting office, who shall affect its destruction.

10 (i) If a seizure under subsection (g) is not followed by a  
11 charge under subsection (a), (a-5), (a-5.1), (a-8), (b), or  
12 (d) of this Section or under the Preventing Youth Vaping Act,  
13 or if the prosecution of the charge is permanently terminated  
14 or indefinitely discontinued without any judgment of  
15 conviction or acquittal:

16 (1) the prosecuting office may commence in the circuit  
17 court an in rem proceeding for the forfeiture and  
18 destruction of any seized tobacco products or electronic  
19 cigarettes; and

20 (2) any person having any property interest in the  
21 seized tobacco products or electronic cigarettes may  
22 commence separate civil proceedings in the manner provided  
23 by law.

24 (Source: P.A. 101-2, eff. 7-1-19.)

25 Section 45. The Prevention of Cigarette Sales to Persons

1 under 21 Years of Age Act is amended by changing Sections 1, 2,  
2 5, 6, 7, 8, 9, 10, and 20 as follows:

3 (720 ILCS 678/1)

4 Sec. 1. Short title. This Act may be cited as the  
5 Prevention of Cigarette and Electronic Cigarette Sales to  
6 Persons under 21 Years of Age Act.

7 (Source: P.A. 101-2, eff. 7-1-19.)

8 (720 ILCS 678/2)

9 Sec. 2. Definitions. For the purpose of this Act:

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

16 "Clear and conspicuous statement" means the statement is  
17 of sufficient type size to be clearly readable by the  
18 recipient of the communication.

19 "Consumer" means an individual who acquires or seeks to  
20 acquire cigarettes or electronic cigarettes for personal use.

21 "Delivery sale" means any sale of cigarettes or electronic  
22 cigarettes to a consumer if:

23 (a) the consumer submits the order for such sale by  
24 means of a telephone or other method of voice

1 transmission, the mails, or the Internet or other online  
2 service, or the seller is otherwise not in the physical  
3 presence of the buyer when the request for purchase or  
4 order is made; or

5 (b) the cigarettes or electronic cigarettes are  
6 delivered by use of a common carrier, private delivery  
7 service, or the mails, or the seller is not in the physical  
8 presence of the buyer when the buyer obtains possession of  
9 the cigarettes or electronic cigarettes.

10 "Delivery service" means any person (other than a person  
11 that makes a delivery sale) who delivers to the consumer the  
12 cigarettes or electronic cigarettes sold in a delivery sale.

13 "Department" means the Department of Revenue.

14 "Electronic cigarette" means:

15 (1) any device that employs a battery or other  
16 mechanism to heat a solution or substance to produce a  
17 vapor or aerosol intended for inhalation;

18 (2) any cartridge or container of a solution or  
19 substance intended to be used with or in the device or to  
20 refill the device; or

21 (3) any solution or substance, whether or not it  
22 contains nicotine, intended for use in the device.

23 "Electronic cigarette" includes, but is not limited to,  
24 any electronic nicotine delivery system, electronic cigar,  
25 electronic cigarillo, electronic pipe, electronic hookah, vape  
26 pen, or similar product or device, and any component, part, or

1 accessory of a device used during the operation of the device,  
2 even if the part or accessory was sold separately. "Electronic  
3 cigarette" does not include: cigarettes, as defined in Section  
4 1 of the Cigarette Tax Act; any product approved by the United  
5 States Food and Drug Administration for sale as a tobacco  
6 cessation product, a tobacco dependence product, or for other  
7 medical purposes that is marketed and sold solely for that  
8 approved purpose; any asthma inhaler prescribed by a physician  
9 for that condition that is marketed and sold solely for that  
10 approved purpose; or any cannabis product sold by a dispensing  
11 organization pursuant to the Cannabis Regulation and Tax Act  
12 or the Compassionate Use of Medical Cannabis Program Act.

13 "Government-issued identification" means a State driver's  
14 license, State identification card, passport, a military  
15 identification or an official naturalization or immigration  
16 document, such as an alien registration recipient card  
17 (commonly known as a "green card") or an immigrant visa.

18 "Mails" or "mailing" mean the shipment of cigarettes or  
19 electronic cigarettes through the United States Postal  
20 Service.

21 "Out-of-state sale" means a sale of cigarettes or  
22 electronic cigarettes to a consumer located outside of this  
23 State where the consumer submits the order for such sale by  
24 means of a telephonic or other method of voice transmission,  
25 the mails or any other delivery service, facsimile  
26 transmission, or the Internet or other online service and



1 where the cigarettes or electronic cigarettes are delivered by  
2 use of the mails or other delivery service.

3 "Person" means any individual, corporation, partnership,  
4 limited liability company, association, or other organization  
5 that engages in any for-profit or not-for-profit activities.

6 "Shipping package" means a container in which packs or  
7 cartons of cigarettes or electronic cigarettes are shipped in  
8 connection with a delivery sale.

9 "Shipping documents" means bills of lading, air bills, or  
10 any other documents used to evidence the undertaking by a  
11 delivery service to deliver letters, packages, or other  
12 containers.

13 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10.)

14 (720 ILCS 678/5)

15 Sec. 5. Unlawful shipment or transportation of cigarettes  
16 or electronic cigarettes.

17 (a) It is unlawful for any person engaged in the business  
18 of selling cigarettes or electronic cigarettes to ship or  
19 cause to be shipped any cigarettes electronic cigarettes  
20 unless the person shipping the cigarettes or electronic  
21 cigarettes:

22 (1) is licensed as a distributor or, in the case of  
23 electronic cigarettes, a retailer, under ~~either~~ the  
24 Cigarette Tax Act, ~~or~~ the Cigarette Use Tax Act, or the  
25 Tobacco Products Tax Act of 1995; or delivers the

1           cigarettes or electronic cigarettes to a distributor, or  
2           in the case of electronic cigarettes, a retailer, licensed  
3           under ~~either~~ the Cigarette Tax Act, ~~or~~ the Cigarette Use  
4           Tax Act, or the Tobacco Products Tax Act of 1995; or

5           (2) ships them to an export warehouse proprietor  
6           pursuant to Chapter 52 of the Internal Revenue Code, or an  
7           operator of a customs bonded warehouse pursuant to Section  
8           1311 or 1555 of Title 19 of the United States Code.

9           For purposes of this subsection (a), a person is a  
10          licensed distributor if the person's name appears on a list of  
11          licensed distributors published by the Illinois Department of  
12          Revenue. The term cigarette has the same meaning as defined in  
13          Section 1 of the Cigarette Tax Act and Section 1 of the  
14          Cigarette Use Tax Act. Nothing in this Act prohibits a person  
15          licensed as a distributor under the Cigarette Tax Act, ~~or~~ the  
16          Cigarette Use Tax Act, or the Tobacco Products Tax Act of 1995  
17          from shipping or causing to be shipped any cigarettes or  
18          electronic cigarettes to a registered retailer under the  
19          Retailers' Occupation Tax Act provided the cigarette tax, ~~or~~  
20          cigarette use tax, or tobacco product tax has been paid.

21          In this Section, "retailer" means a person who engages in  
22          this State in the sale of or offering for sale of electronic  
23          cigarettes for use or consumption and not for resale in any  
24          form. "Retailer" includes a retailer as defined in Section 1  
25          of the Cigarette Tax Act and Section 10-5 of the Tobacco  
26          Products Tax Act of 1995.

1 (b) A common or contract carrier may transport cigarettes  
2 or electronic cigarettes to any individual person in this  
3 State only if the carrier reasonably believes such cigarettes  
4 or electronic cigarettes have been received from a person  
5 described in paragraph (a) (1). Common or contract carriers may  
6 make deliveries of cigarettes or electronic cigarettes to  
7 licensed distributors described in paragraph (a) (1) of this  
8 Section. Nothing in this subsection (b) shall be construed to  
9 prohibit a person other than a common or contract carrier from  
10 transporting not more than 1,000 cigarettes at any one time to  
11 any person in this State.

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

1 to individuals under 21 years of age is illegal; and (3) that  
2 the purchase of cigarettes by individuals under 21 years of  
3 age is illegal under the laws of Illinois.

4 (d) When a person engaged in the business of selling  
5 cigarettes or electronic cigarettes ships or causes to be  
6 shipped any cigarettes or electronic cigarettes to any person  
7 in this State, other than in the cigarette or electronic  
8 cigarette manufacturer's or tobacco products manufacturer's  
9 original container or wrapping, the container or wrapping must  
10 be plainly and visibly marked with the word "cigarettes" or  
11 "electronic cigarettes".

12 (e) When a peace officer of this State or any duly  
13 authorized officer or employee of the Illinois Department of  
14 Public Health or Department of Revenue discovers any  
15 cigarettes or electronic cigarettes which have been or which  
16 are being shipped or transported in violation of this Section,  
17 he or she shall seize and take possession of the cigarettes or  
18 electronic cigarettes, and the cigarettes or electronic  
19 cigarettes shall be subject to a forfeiture action pursuant to  
20 the procedures provided under the Cigarette Tax Act, ~~or~~  
21 Cigarette Use Tax Act, or Tobacco Products Tax Act of 1995.

22 (Source: P.A. 101-2, eff. 7-1-19.)

23 (720 ILCS 678/6)

24 Sec. 6. Prevention of delivery sales to persons under 21  
25 years of age.

1 (a) No person shall make a delivery sale of cigarettes or  
2 electronic cigarettes to any individual who is under 21 years  
3 of age.

4 (b) Each person accepting a purchase order for a delivery  
5 sale shall comply with the provisions of this Act and all other  
6 laws of this State generally applicable to sales of cigarettes  
7 or electronic cigarettes that occur entirely within this  
8 State.

9 (Source: P.A. 101-2, eff. 7-1-19.)

10 (720 ILCS 678/7)

11 Sec. 7. Age verification and shipping requirements to  
12 prevent delivery sales to persons under 21 years of age.

13 (a) No person, other than a delivery service, shall mail,  
14 ship, or otherwise cause to be delivered a shipping package in  
15 connection with a delivery sale unless the person:

16 (1) prior to the first delivery sale to the  
17 prospective consumer, obtains from the prospective  
18 consumer a written certification which includes a  
19 statement signed by the prospective consumer that  
20 certifies:

21 (A) the prospective consumer's current address;  
22 and

23 (B) that the prospective consumer is at least the  
24 legal minimum age;

25 (2) informs, in writing, such prospective consumer

1           that:

2                   (A) the signing of another person's name to the  
3                   certification described in this Section is illegal;

4                   (B) sales of cigarettes or electronic cigarettes  
5                   to individuals under 21 years of age are illegal;

6                   (C) the purchase of cigarettes or electronic  
7                   cigarettes by individuals under 21 years of age is  
8                   illegal; and

9                   (D) the name and identity of the prospective  
10                   consumer may be reported to the state of the  
11                   consumer's current address under the Act of October  
12                   19, 1949 (15 U.S.C. § 375, et seq.), commonly known as  
13                   the Jenkins Act;

14                   (3) makes a good faith effort to verify the date of  
15                   birth of the prospective consumer provided pursuant to  
16                   this Section by:

17                           (A) comparing the date of birth against a  
18                           commercially available database; or

19                           (B) obtaining a photocopy or other image of a  
20                           valid, government-issued identification stating the  
21                           date of birth or age of the prospective consumer;

22                   (4) provides to the prospective consumer a notice that  
23                   meets the requirements of subsection (b);

24                   (5) receives payment for the delivery sale from the  
25                   prospective consumer by a credit or debit card that has  
26                   been issued in such consumer's name, or by a check or other

1 written instrument in such consumer's name; however, no  
2 money order or cash payment shall be received or permitted  
3 and the seller shall submit to each credit card acquiring  
4 company with which it has credit card sales identification  
5 information in an appropriate form and format so that the  
6 words "tobacco product" may be printed in the purchaser's  
7 credit card statement when a purchase of a cigarette or  
8 electronic cigarette is made by credit card payment; and

9 (6) ensures that the shipping package is delivered to  
10 the same address as is shown on the government-issued  
11 identification or contained in the commercially available  
12 database. No delivery described under this Section shall  
13 be permitted to any post office box.

14 (b) The notice required under this Section shall include:

15 (1) a statement that cigarette and electronic  
16 cigarette sales to consumers below 21 years of age are  
17 illegal;

18 (2) a statement that sales of cigarettes and  
19 electronic cigarettes are restricted to those consumers  
20 who provide verifiable proof of age in accordance with  
21 subsection (a);

22 (3) a statement that cigarette or electronic cigarette  
23 sales are subject to tax under Section 2 of the Cigarette  
24 Tax Act ~~(35 ILCS 130/2)~~, Section 2 of the Cigarette Use Tax  
25 Act, ~~and~~ Section 3 of the Use Tax Act, and Section 10-10 of  
26 the Tobacco Products Tax Act of 1995 and an explanation of

1           how the correct tax has been, or is to be, paid with  
2           respect to such delivery sale.

3           (c) A statement meets the requirement of this Section if:

4                 (1) the statement is clear and conspicuous;

5                 (2) the statement is contained in a printed box set  
6           apart from the other contents of the communication;

7                 (3) the statement is printed in bold, capital letters;

8                 (4) the statement is printed with a degree of color  
9           contrast between the background and the printed statement  
10          that is no less than the color contrast between the  
11          background and the largest text used in the communication;  
12          and

13                (5) for any printed material delivered by electronic  
14          means, the statement appears at both the top and the  
15          bottom of the electronic mail message or both the top and  
16          the bottom of the Internet website homepage.

17           (d) Each person, other than a delivery service, who mails,  
18          ships, or otherwise causes to be delivered a shipping package  
19          in connection with a delivery sale shall:

20                (1) include as part of the shipping documents a clear  
21          and conspicuous statement stating: "Cigarettes or  
22          Electronic Cigarettes: Illinois Law Prohibits Shipping to  
23          Individuals Under 21 and Requires the Payment of All  
24          Applicable Taxes";

25                (2) use a method of mailing, shipping, or delivery  
26          that requires a signature before the shipping package is



1 released to the consumer; and

2 (3) ensure that the shipping package is not delivered  
3 to any post office box.

4 (Source: P.A. 101-2, eff. 7-1-19; revised 4-29-19.)

5 (720 ILCS 678/8)

6 Sec. 8. Registration and reporting requirements to prevent  
7 delivery sales to persons under 21 years of age.

8 (a) Not later than the 15th day of each month, each person  
9 making a delivery sale during the previous calendar month  
10 shall file a report with the Department containing the  
11 following information:

12 (1) the seller's name, trade name, and the address of  
13 such person's principal place of business and any other  
14 place of business;

15 (2) the name and address of the consumer to whom such  
16 delivery sale was made;

17 (3) the brand style or brand styles of the cigarettes  
18 or electronic cigarettes that were sold in such delivery  
19 sale;

20 (4) the quantity of cigarettes that were sold in such  
21 delivery sale;

22 (5) an indication of whether or not the cigarettes or  
23 electronic cigarettes sold in the delivery sale bore a tax  
24 stamp evidencing payment of the tax under Section 2 of the  
25 Cigarette Tax Act ~~(35 ILCS 130/2)~~; and

1 (6) such other information the Department may require.

2 (b) Each person engaged in business within this State who  
3 makes an out-of-state sale shall, for each individual sale,  
4 submit to the appropriate tax official of the state in which  
5 the consumer is located the information required in subsection  
6 (a).

7 (c) Any person that satisfies the requirements of 15  
8 U.S.C. Section 376 shall be deemed to satisfy the requirements  
9 of subsections (a) and (b).

10 (d) The Department is authorized to disclose to the  
11 Attorney General any information received under this title and  
12 requested by the Attorney General. The Department and the  
13 Attorney General shall share with each other the information  
14 received under this title and may share the information with  
15 other federal, State, or local agencies for purposes of  
16 enforcement of this title or the laws of the federal  
17 government or of other states.

18 (e) This Section shall not be construed to impose  
19 liability upon any delivery service, or officers or employees  
20 thereof, when acting within the scope of business of the  
21 delivery service.

22 (f) The Department may establish procedures requiring  
23 electronic transmission of the information required by this  
24 Section directly to the Department on forms prescribed and  
25 furnished by the Department.

26 (Source: P.A. 101-2, eff. 7-1-19.)

1 (720 ILCS 678/9)

2 Sec. 9. Statements for delivery sales.

3 (a) Each person who makes a delivery sale shall collect  
4 and remit to the Department all excise taxes imposed by this  
5 State with respect to such delivery sale and maintain evidence  
6 of such payment unless the person is located outside the State  
7 and includes a statement on the outside of the shipping  
8 package stating: "Illinois law requires the payment of state  
9 taxes on this shipment of cigarettes or electronic cigarettes.  
10 You are legally responsible for all applicable unpaid state  
11 taxes on these cigarettes or electronic cigarettes."

12 (b) A statement meets the requirements of subsection (a)  
13 if the statement is:

14 (1) clear and conspicuous;

15 (2) contained in a printed box set apart from the  
16 shipping label and other markings contained on the  
17 shipping package;

18 (3) printed in bold, capital letters;

19 (4) printed with a degree of color contrast between  
20 the background and the printed statement that is no less  
21 than the color contrast between the background and the  
22 largest text used on the shipping label; and

23 (5) located on the same side of the shipping package  
24 as the shipping label.

25 (Source: P.A. 95-1053, eff. 1-1-10.)

1 (720 ILCS 678/10)

2 Sec. 10. Violation.

3 (a) A person who violates subsection (a), (b), or (c) of  
4 Section 5 or Section 6, 7, 8, or 9 is guilty of a Class A  
5 misdemeanor. A second or subsequent violation of subsection  
6 (a), (b), or (c) of Section 5 or Section 6, 7, 8, or 9 is a  
7 Class 4 felony.

8 (b) The Department of Revenue shall impose a civil penalty  
9 not to exceed \$5,000 on any person who violates subsection  
10 (a), (b), or (c) of Section 5 or Section 6, 7, 8, or 9. The  
11 Department of Revenue shall impose a civil penalty not to  
12 exceed \$5,000 on any person engaged in the business of selling  
13 cigarettes or electronic cigarettes who ships or causes to be  
14 shipped any such cigarettes or electronic cigarettes to any  
15 person in this State in violation of subsection (d) of Section  
16 5. Civil penalties imposed and collected by the Department  
17 shall be deposited into the Tax Compliance and Administration  
18 Fund.

19 (c) All cigarettes or electronic cigarettes sold or  
20 attempted to be sold in a delivery sale that does not meet the  
21 requirements of this Act shall be forfeited to the State. All  
22 cigarettes or electronic cigarettes forfeited to this State  
23 under this Act shall be destroyed or maintained and used in an  
24 undercover capacity. The Department may, prior to any  
25 destruction of cigarettes or electronic cigarettes, permit the

1 true holder of the trademark rights in the cigarette or  
2 electronic cigarette brand to inspect such contraband  
3 cigarettes or electronic cigarettes, in order to assist the  
4 Department in any investigation regarding such cigarettes or  
5 electronic cigarettes.

6 (d) Any person aggrieved by any decision of the Department  
7 of Revenue may, within 60 days after notice of that decision,  
8 protest in writing and request a hearing. The Department of  
9 Revenue shall give notice to the person of the time and place  
10 for the hearing and shall hold a hearing before it issues a  
11 final administrative decision. Absent a written protest within  
12 60 days, the Department's decision shall become final without  
13 any further determination made or notice given.

14 (e) The penalties provided for in this Section are in  
15 addition to any other penalties provided for by law.

16 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10.)

17 (720 ILCS 678/20)

18 Sec. 20. Tip line.

19 (a) Not later than 120 days after January 1, 2010 (the  
20 effective date of Public Act 95-1053 ~~this amendatory Act of~~  
21 ~~the 95th General Assembly~~), the Department shall establish,  
22 publicize, and maintain a toll-free telephone number to  
23 receive information related to the sale and delivery of  
24 contraband cigarettes or electronic cigarettes.

25 (b) The Attorney General may pay a reward of up to \$5,000

1 to any person who furnishes information leading to the  
2 Department's collection of excise taxes imposed upon delivery  
3 sales which otherwise would not have been collected but for  
4 the information provided by the person.

5 (Source: P.A. 95-1053, eff. 1-1-10.)

6 Section 97. Severability. If any provision of this Act or  
7 its application to any person or circumstance is held invalid,  
8 the invalidity of that provision or application does not  
9 affect other provisions or applications of this Act that can  
10 be given effect without the invalid provision or application.

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 720 ILCS 675/1 from Ch. 23, par. 2357

5 720 ILCS 678/1

6 720 ILCS 678/2

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8 720 ILCS 678/6

9 720 ILCS 678/7

10 720 ILCS 678/8

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13 720 ILCS 678/20