

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 5. The Preventing Youth Vaping Act is amended by
5 changing Sections 15 and 35 and by adding Section 15a as
6 follows:

7 (410 ILCS 86/15)

8 Sec. 15. Prohibitions.

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

10 (1) To sell or distribute in this State; to acquire,
11 hold, own, possess, or transport, for sale or distribution
12 in this State; or to import, or cause to be imported into
13 this State for sale or distribution in this State:

14 (A) any electronic cigarette with packaging that:

15 (i) bears any statement, label, stamp,
16 sticker, or notice indicating that the
17 manufacturer did not intend the electronic
18 cigarette to be sold, distributed, or used in the
19 United States, including, but not limited to,
20 labels stating "For Export Only", "U.S. Tax
21 Exempt", "For Use Outside U.S.", or similar
22 wording; or

23 (ii) does not comply with:

1 (I) all requirements imposed by or
2 pursuant to federal law regarding warnings and
3 other information on packages of electronic
4 cigarettes manufactured, packaged, or imported
5 for sale, distribution, or use in the United
6 States; and

7 (II) all federal trademark and copyright
8 laws; and

9 (B) any electronic cigarette that the person
10 otherwise knows or has reason to know the manufacturer
11 did not intend to be sold, distributed, or used in the
12 United States.

13 (2) To alter the packaging of an electronic cigarette,
14 prior to sale or distribution to the ultimate consumer, so
15 as to remove, conceal, or obscure any statement, label,
16 stamp, sticker, or notice required under this Section or
17 federal law.

18 (3) To affix any stamp required under this Act to the
19 packaging of any electronic cigarettes described in
20 subparagraph (A) of paragraph (1) or altered in violation
21 of subparagraph (A) of paragraph (1).

22 (4) To adulterate an electronic cigarette for sale in
23 this State. An electronic cigarette is adulterated if:

24 (A) it consists in whole or in part of any filthy,
25 putrid, or decomposed substance, or is otherwise
26 contaminated by any added poisonous or deleterious

1 substance that may render the product injurious to
2 health;

3 (B) it is held or packaged in containers composed,
4 in whole or in part, of any poisonous or deleterious
5 substance that may render the contents injurious to
6 health; or

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

11 Electronic cigarettes first sold prior to August 8, 2016
12 and for which a pending premarket tobacco product application
13 was submitted to the U.S. Food and Drug Administration by
14 September 9, 2020 shall not be deemed to be adulterated under
15 subparagraph (C) of paragraph (4) of this subsection.

16 (b) A distributor, secondary distributor, retailer, or
17 person who violates this Section shall be guilty of a Class 4
18 felony.

19 (c) Any violation of this Act shall be reported to the
20 Department of Revenue within 7 business days.

21 (Source: P.A. 102-575, eff. 1-1-22.)

22 (410 ILCS 86/15a new)

23 Sec. 15a. Certifications.

24 (a) Any distributor, secondary distributor, or retailer
25 who sells, offers for sale, or distributes electronic

1 cigarettes in this State shall:

2 (1) obtain, upon purchase of any electronic cigarettes
3 for sale or distribution in this State, a certification by
4 the manufacturer of the electronic cigarettes stating that
5 the electronic cigarettes are not adulterated as that term
6 is used in paragraph (4) of Section 15, and, for purposes
7 of determining compliance with subparagraph (C) of
8 paragraph (4), the certification shall include the date on
9 which the electronic cigarette's pending premarket tobacco
10 product application was submitted to the United States
11 Food and Drug Administration or the date on which the
12 electronic cigarette received a marketing granted order
13 from the United States Food and Drug Administration;

14 (2) not sell, offer for sale, or distribute any
15 electronic cigarettes in this State for which it has not
16 obtained the certification described in paragraph (1);

17 (3) maintain, whether in paper or electronic form, for
18 at least 2 years, a copy of any certification provided to
19 it by a manufacturer under paragraph (1); and

20 (4) produce a copy of any certification provided to it
21 by a manufacturer under paragraph (1) upon request by the
22 Department of Revenue, the Attorney General, or any entity
23 with enforcement authority under subsection (b) of Section
24 10 of this Act.

25 (b) No manufacturer of electronic cigarettes shall
26 provide any false or misleading statement in any certification

1 provided to a distributor, secondary distributor, or retailer
2 under paragraph (1). A distributor, secondary distributor, or
3 retailer shall not be held liable for a false or misleading
4 statement provided by a manufacturer in a certification.

5 (410 ILCS 86/35)

6 Sec. 35. Violations.

7 (a) Upon a finding that a distributor, secondary
8 distributor, retailer, or person has committed any of the
9 conduct prohibited under this Act or any rule adopted under
10 this Act, knowing or having reason to know that he or she has
11 done so, the Department of Revenue may: revoke or suspend the
12 license or licenses of the distributor, secondary distributor,
13 retailer, or person pursuant to the procedures set forth in
14 the Cigarette Tax Act, Cigarette Use Tax Act, or the Tobacco
15 Products Tax Act of 1995; and impose on the distributor,
16 secondary distributor, retailer, or person a civil penalty in
17 an amount not to exceed the greater of 500% of the retail value
18 of the electronic cigarettes involved or \$10,000.

19 (b) Electronic cigarettes that are acquired in, held in,
20 owned in, possessed in, transported within, imported into, or
21 sold or distributed across this State in violation of this Act
22 shall be deemed contraband under this Act and are subject to
23 seizure and forfeiture as provided in subsection (g) of
24 Section 1 of the Prevention of Tobacco Use by Persons under 21
25 Years of Age and Sale and Distribution of Tobacco Products

1 Act, and all such electronic cigarettes seized and forfeited
2 shall be destroyed or maintained and used in an undercover
3 capacity. Such electronic cigarettes shall be deemed
4 contraband whether the violation of this Act is knowing or
5 otherwise.

6 (c) The Attorney General may enforce violations of Section
7 15, 15a, or 25 of this Act as an unlawful practice under the
8 Consumer Fraud and Deceptive Business Practices Act.

9 (Source: P.A. 102-575, eff. 1-1-22.)