

1 AN ACT in relation to criminal law.

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

4 Section 5. The Sale of Tobacco to Minors Act is amended
5 by changing Sections 1 and 2 and adding Sections 0.05, 3, 4,
6 5, and 6 as follows:

7 (720 ILCS 675/0.05 new)

8 Sec. 0.05. Definitions. In this Act:

9 "Retailer" means a person who sells tobacco products to
10 individuals for personal consumption or who operates a
11 facility containing vending machines that dispense tobacco
12 products or self-service displays of tobacco products.

13 "Smokeless tobacco" means any tobacco products that are
14 suitable for dipping or chewing.

15 "Tobacco product" means any substance containing tobacco
16 leaf, including but not limited to cigarettes, cigars, snuff,
17 smoking tobacco, and smokeless tobacco.

18 "Person" means an individual, firm, partnership, joint
19 venture, association, corporation, estate, trust, trustee, or
20 other group or combination acting as a unit, except the
21 United States of America, the State of Illinois, or any
22 political subdivision of the State of Illinois.

23 "Tobacco product sample" means a tobacco product
24 distributed to members of the general public at no cost or at
25 nominal cost for purposes of promoting the product.

26 "Vending machine" means a mechanical, electronic, or
27 self-service device that, upon insertion of money, tokens, or
28 any other form of payment, automatically dispenses tobacco
29 products.

30 "Distribute" means to give, sell, deliver, dispense, or
31 issue or offer to give, sell, deliver, dispense, or issue, or

1 cause or hire any person to give, sell, deliver, dispense,
2 issue, or offer to give, sell, deliver, dispense, or issue.

3 "Public place" means any area to which the public is
4 invited or permitted.

5 "Tavern" means an enclosed place of business kept, used,
6 maintained, advertised, or held out to the public as a place
7 that primarily serves alcoholic liquor for consumption on the
8 premises and in which providing entertainment or the serving
9 of food is only incidental or secondary to the sale of
10 alcoholic beverages for immediate consumption. "Tavern" does
11 not include a restaurant, catering hall, bowling alley,
12 billiard parlor, discotheque, theater, or arena.

13 "Photographic identification" means any officially issued
14 card containing the bearer's date of birth that includes a
15 photograph of a person that is accepted as proof of age under
16 Illinois law.

17 "Point of sale" means a store, stand, building, boat,
18 vending machine, or any other separate place of business
19 maintained by a seller from which tobacco products are made
20 available for distribution to consumers. "Point of sale"
21 does not include separate cash registers or service counters
22 within a store or other place of business.

23 "Licensee" means a person who holds a tobacco product
24 retailer's license under this Act.

25 (720 ILCS 675/1) (from Ch. 23, par. 2357)

26 Sec. 1. A No minor under 18 years of age may not shall
27 buy any cigar, cigarette, smokeless tobacco or tobacco in any
28 of its forms. A No retailer may not person--shall sell, buy
29 for, distribute samples of or furnish any cigar, cigarette,
30 smokeless-tobacco-or tobacco product in-any-of-its-forms, to
31 any minor under 18 years of age.

32 For--the--purpose--of--this--Section, "smokeless-tobacco"
33 means-any-tobacco-products-that-are-suitable-for--dipping--or

1 chewing-

2 Tobacco products listed--above may be sold through a
3 vending machine only in the following locations:

4 (1) Factories, businesses, offices, private clubs,
5 and other places not open to the general public.

6 (2) Places to which minors under 18 years of age
7 are not permitted access.

8 (3) Taverns, if the vending machine is at least 25
9 feet from any entrance ~~Places where alcoholic beverages~~
10 ~~are sold and consumed on the premises.~~

11 (4) Places where the vending machine is under the
12 direct supervision of the owner of the establishment or
13 an employee over 18 years of age. The sale of tobacco
14 products from a vending machine under direct supervision
15 of the owner or an employee of the establishment is
16 considered a sale of tobacco products by that person. As
17 used in this subdivision, "direct supervision" means that
18 the owner or employee has an unimpeded line of sight to
19 the vending machine.

20 (5) Places where the vending machine can only be
21 operated by the owner or an employee over age 18 either
22 directly or through a remote control device if the device
23 is inaccessible to all customers.

24 (Source: P.A. 89-181, eff. 7-19-95.)

25 (720 ILCS 675/2) (from Ch. 23, par. 2358)

26 Sec. 2. Any retailer ~~person~~ who violates any provision
27 of this Act is guilty of a petty offense and for the first
28 offense shall be fined \$250 ~~\$200~~, \$500 ~~and a 30 day~~
29 suspension of that retailer's license ~~\$400~~ for the second
30 offense in a 12-month period, and \$1,000 ~~and a one year~~
31 suspension of that retailer's license ~~\$600~~ for the third or
32 any subsequent offense in a 12-month period. One-half of each
33 fine collected under this Section shall be distributed to the

1 unit of local government or other entity that successfully
2 prosecuted the offender and one-half shall be remitted to the
3 State to be used for enforcing this Act. Any person who sells
4 tobacco products without a license as required by this Act or
5 after a suspension of a license under this Act is guilty of a
6 petty offense and shall be fined \$500. Each instance in which
7 a person sells tobacco products without a valid license shall
8 constitute a separate and distinct violation.

9 (Source: P.A. 88-418.)

10 (720 ILCS 675/3 new)

11 Sec. 3. Prohibitions on distribution of tobacco
12 products.

13 (a) Each retailer shall request and examine the
14 photographic identification of any person purchasing tobacco
15 products to verify that the purchaser is over 18 years of
16 age. A verification is not required for any person who
17 appears without reasonable doubt to be over 27 years of age.

18 (b) A retailer may not break or otherwise open a
19 cigarette or smokeless tobacco package to distribute
20 individual cigarettes or a number of unpackaged cigarettes
21 that is smaller than the minimum cigarette package size of 20
22 cigarettes or any quantity of cigarette tobacco or smokeless
23 tobacco that is smaller than the smallest package distributed
24 by the manufacturer for individual consumer use.

25 (c) A person may not give away, barter, exchange,
26 distribute or in any way dispense free of charge or at
27 nominal cost any tobacco product samples or any coupon
28 redeemable for any tobacco products (i) on any public street,
29 alley, sidewalk; (ii) in any public park, ground, or
30 playground; (iii) in any area open to the public in any
31 publicly owned or operated building; or (iv) at any place
32 located within 500 feet of any building or other location
33 used primarily as a school, child care facility, or for the

1 education or recreation of children under 18 years of age.

2 (d) A retailer may not distribute tobacco products at
3 any place located within 500 feet of any building or other
4 location used primarily as a school, child care facility, or
5 for the education or recreation of children under 18 years of
6 age. This prohibition does not apply to any business engaged
7 in the retail sale of tobacco products from a location from
8 which it was selling tobacco products on the effective date
9 of this amendatory Act of the 93rd General Assembly. This
10 exemption applies to any new owner at the same location
11 providing the same service.

12 (720 ILCS 675/4 new)

13 Sec. 4. Vending machine signs.

14 (a) A retailer of tobacco products shall place and
15 maintain, in legible condition, at each point of sale of
16 tobacco products to consumers, including the front of each
17 vending machine, a sign stating:

18 "WARNING

19 It is a violation of the law for cigarettes or other
20 tobacco products to be sold to any person under the age of 18
21 years."

22 The sign may not be less than 8 inches by 11 inches in
23 size, except for a sign placed on the front of a vending
24 machine. The sign for a vending machine may not be less than
25 4 inches by 4 inches in size. The text of the sign shall be
26 in red letters at least one inch high on a white background.

27 (b) The Department of Public Health shall issue an
28 adhesive self-voiding license emblem to be placed on each
29 licensed tobacco product vending machine. Each license
30 emblem shall be coded to identify the retailer who has
31 control over each tobacco product vending machine. The
32 license emblem shall bear the words "Licensed Tobacco Product
33 Vending Machine". The license shall designate the period for

1 which the license is valid, shall contain a reproduction of
2 the State seal, shall contain a space for a brief description
3 of the name, style, and type of vending machine to be
4 licensed and the location of the vending machine. A
5 replacement license emblem will not be issued unless the
6 application for the replacement emblem is accompanied by a
7 police report of the incident in which the emblem to be
8 replaced was lost, stolen, or mutilated or unless the
9 remnants of the emblem being replaced are submitted with the
10 replacement application.

11 (720 ILCS 675/5 new)

12 Sec. 5. Licensing of tobacco product retailers.

13 (a) Beginning July 1, 2004, a person may not engage in
14 the retail sale of tobacco products or operate a facility
15 containing vending machines that dispense tobacco products
16 unless the person is authorized to do so by a license issued
17 under this Act or is an employee or agent of a person who has
18 been issued a license under this Act. A separate license
19 must be obtained for each point of sale maintained by the
20 retailer. A license to sell tobacco products shall be
21 displayed prominently at the point of sale for which it is
22 issued.

23 (b) The Department of Public Health shall administer the
24 licensing of retailers of tobacco products and shall approve
25 or deny all applications for licenses and revoke existing
26 licenses under this Act.

27 (c) An application for a tobacco retailer's license
28 shall be filed in writing with the Department of Public
29 Health on a form provided by the Department. Each
30 application for a license shall contain the following:

31 (1) the applicant's full name, the address and
32 telephone number where the applicant is engaged in the
33 business of the retail sale of tobacco products, and the

1 name, address, and telephone number of a person
2 authorized to receive notices issued under this Act;

3 (2) if the applicant is a corporation, the
4 corporate name, the address and telephone number of its
5 principal place of business, the date and state of
6 incorporation, the names of the corporate officers, and
7 the name, address, and telephone number of a person
8 authorized to receive notices issued under this Act;

9 (3) if the applicant is a partnership, the name,
10 address, and telephone number of the principal place of
11 business, the names of all partners, and the name,
12 address, and telephone number of a person authorized to
13 receive notices issued under this Act. Any retailer whose
14 license is revoked for violating this Act shall be
15 prohibited from obtaining a tobacco retailer's license
16 for one year.

17 (d) Every retailer's license shall be issued for an
18 annual period beginning January 1 of a given year and ending
19 December 31 of that year. Each license shall expire on the
20 last day of the license year for which the license was
21 issued.

22 (e) The annual license fee for a retailer shall be \$125
23 per license. If a licensee operates more than one vending
24 machine at the same premises, the licensee shall pay the
25 annual license fee of \$125 for the first vending machine
26 license and \$25 for each additional vending machine license.

27 (f) The transfer of any license issued under this Act is
28 prohibited. Any such purported transfer is void.

29 (720 ILCS 675/6 new)

30 Sec. 6. Severability. The provisions of this Act are
31 severable under Section 1.31 of the Statute on Statutes.