

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 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 If a person is both a licensed distributor and a licensed

1 retailer under this Act, then the Department shall issue that
2 person a single license number for both of those purposes.

3 Any person aggrieved by any decision of the Department
4 under this Section ~~subsection~~ may, within 45 ~~30~~ days after
5 notice of the decision, protest and request a hearing. Upon
6 receiving a request for a hearing, the Department shall give
7 written notice to the person requesting the hearing of the time
8 and place fixed for the hearing and shall hold a hearing in
9 conformity with the provisions of this Act and then issue its
10 final administrative decision in the matter to that person. In
11 the absence of a protest and request for a hearing within 45 ~~30~~
12 days, the Department's decision shall become final without any
13 further determination being made or notice given.

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

15 (35 ILCS 130/11c)

16 (This Section may contain text from a Public Act with a
17 delayed effective date)

18 Sec. 11c. Retailers; records. Every retailer who is
19 required to procure a license under this Act shall keep within
20 Illinois complete and accurate records of cigarettes
21 purchased, sold, or otherwise disposed of. It shall be the duty
22 of every retail licensee to make sales records, copies of bills
23 of sale, and inventory at the close of each period for which a
24 report is required of all cigarettes on hand available upon
25 reasonable notice for the purpose of investigation and control

1 by the Department. Records may be kept electronically and may
2 be kept at an out-of-state location; however, those records
3 must be made available upon reasonable notice for the purpose
4 of investigation and control by the Department. ~~Such records~~
5 ~~need not be maintained on the licensed premises, but must be~~
6 ~~maintained in the State of Illinois; however, if access is~~
7 ~~available electronically, the records may be maintained out of~~
8 ~~state. However, all original invoices or copies thereof~~
9 ~~covering purchases of cigarettes must be retained on the~~
10 ~~licensed premises for a period of 90 days after such purchase,~~
11 ~~unless the Department has granted a waiver in response to a~~
12 ~~written request in cases where records are kept at a central~~
13 ~~business location within the State of Illinois or in cases~~
14 ~~where records that are available electronically are maintained~~
15 ~~out of state.~~ The Department may adopt rules that establish
16 requirements, including record forms and formats, for records
17 required to be kept and maintained by the retailer.

18 For purposes of this Section, "records" means all data
19 maintained by the retailer, including data on paper, microfilm,
20 microfiche or any type of machine sensible data compilation.
21 Those books, records, papers, and documents shall be preserved
22 for a period of at least 3 years after the date of the
23 documents, or the date of the entries appearing in the records,
24 unless the Department, in writing, authorizes their
25 destruction or disposal at an earlier date. At all times during
26 the usual business hours of the day, any duly authorized agent

1 or employee of the Department may enter any place of business
2 of the retailer without a search warrant and may inspect the
3 premises to determine whether any of the provisions of this Act
4 are being violated. If such agent or employee is denied free
5 access or is hindered or interfered with in making such
6 examination as herein provided, the license of the retailer
7 shall be subject to suspension or revocation by the Department.
8 (Source: P.A. 98-1055, eff. 1-1-16.)

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

11 (35 ILCS 143/10-21)

12 (This Section may contain text from a Public Act with a
13 delayed effective date)

14 Sec. 10-21. Retailer's license. Beginning on January 1,
15 2016, no person may engage in business as a retailer of tobacco
16 products in this State without first having obtained a license
17 from the Department. Application for license shall be made to
18 the Department, by electronic means, in a form prescribed by
19 the Department. Each applicant for a license under this Section
20 shall furnish to the Department, in an electronic format
21 established by the Department, the following information:

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

23 (2) the address of the location at which the applicant
24 proposes to engage in business as a retailer of tobacco

1 products in this State;

2 (3) such other additional information as the
3 Department may lawfully require by its rules and
4 regulations.

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

12 Each applicant for license shall pay such fee to the
13 Department at the time of submitting its application for
14 license to the Department. The Department shall require an
15 applicant for a license under this Section to electronically
16 file and pay the fee.

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

21 The following are ineligible to receive a retailer's
22 license under this Act:

23 (1) a person who has been convicted of a felony under
24 any federal or State law for smuggling cigarettes or
25 tobacco products or tobacco tax evasion, if the Department,
26 after investigation and a hearing if requested by the

1 applicant, determines that such person has not been
2 sufficiently rehabilitated to warrant the public trust;
3 and

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

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

1 a retailer unless the retailer is also validly registered under
2 the Retailers Occupation Tax Act.

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

7 If a person is both a licensed distributor and a licensed
8 retailer under this Act (including a retailer who is deemed to
9 be sufficiently licensed by virtue of his being properly
10 licensed as a retailer under Section 4g of the Cigarette Tax
11 Act), then the Department shall issue that person a single
12 license number for both of those purposes.

13 Any person aggrieved by any decision of the Department
14 under this Section ~~subsection~~ may, within 45 ~~30~~ days after
15 notice of the decision, protest and request a hearing. Upon
16 receiving a request for a hearing, the Department shall give
17 notice to the person requesting the hearing of the time and
18 place fixed for the hearing and shall hold a hearing in
19 conformity with the provisions of this Act and then issue its
20 final administrative decision in the matter to that person. In
21 the absence of a protest and request for a hearing within 30
22 days, the Department's decision shall become final without any
23 further determination being made or notice given.

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

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

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

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

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

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

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

25 Sec. 10-25. License actions.

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

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

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

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

1 Act, as provided in subsection (a-5) of Section 2 of that Act.

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

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

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

1 program to sign a form attesting that the employee has received
2 and completed tobacco training. The form shall be kept in the
3 employee's file and may be used to provide proof of training.
4 If a retailer has a training program in place prior to the
5 effective date of this amendatory Act of the 99th General
6 Assembly, has a training program approved by another state, or
7 follows the guidelines set forth by the federal Food and Drug
8 Administration, then that training program shall be deemed to
9 meet the minimum standards in this State.

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

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

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

1 (720 ILCS 675/2) (from Ch. 23, par. 2358)

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

3 Sec. 2. Penalties.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Sec. 2. Penalties.

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

23 (a-5) Any person who violates subsection (a) or (a-5) of
24 Section 1 or Section 1.5 of this Act is guilty of a petty
25 offense. For the first offense, the retailer shall be fined

1 \$200 if it does not have a training program that facilitates
2 compliance with minimum-age tobacco laws. For the second
3 offense, the retailer shall be fined \$400 if it does not have a
4 training program that facilitates compliance with minimum-age
5 tobacco laws. For the third offense, the retailer shall be
6 fined \$600 if it does not have a training program that
7 facilitates compliance with minimum-age tobacco laws. For the
8 fourth or subsequent offense in a 24-month period, the retailer
9 shall be fined \$800 if it does not have a training program that
10 facilitates compliance with minimum-age tobacco laws. For the
11 purposes of this subsection, the 24-month period shall begin
12 with the person's first violation of the Act. The penalties in
13 this subsection are in addition to any other penalties
14 prescribed under the Cigarette Tax Act and the Tobacco Products
15 Tax Act of 1995.

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

1 electronically. Each retailer that has a training program shall
2 require each employee who completes the training program to
3 sign a form attesting that the employee has received and
4 completed tobacco training. The form shall be kept in the
5 employee's file and may be used to provide proof of training.
6 If a retailer has a training program in place prior to the
7 effective date of this amendatory Act of the 99th General
8 Assembly, has a training program approved by another state, or
9 follows the guidelines set forth by the federal Food and Drug
10 Administration, then that training program shall be deemed to
11 meet the minimum standards in this State.

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

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

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

25 (e) Any second or subsequent violation not within the
26 12-month time period after the first violation is punishable as

1 provided for a first violation.

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

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

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

26 (1) one-half of each fine shall be distributed to the

1 unit of local government or other entity that successfully
2 prosecuted the offender; and

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

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

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

9 Section 95. No acceleration or delay. Where this Act makes
10 changes in a statute that is represented in this Act by text
11 that is not yet or no longer in effect (for example, a Section
12 represented by multiple versions), the use of that text does
13 not accelerate or delay the taking effect of (i) the changes
14 made by this Act or (ii) provisions derived from any other
15 Public Act.

16 Section 99. Effective date. This Act takes effect January
17 1, 2016.