

1 AN ACT concerning revenue.

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

4 Section 5. The Cigarette Tax Act is amended by changing  
5 Sections 4g, 6, 11, and 11c as follows:

6 (35 ILCS 130/4g)

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

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

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

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

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

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

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

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

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

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

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

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

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

26          Any person aggrieved by any decision of the Department

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (35 ILCS 130/11c)

25 (This Section may contain text from a Public Act with a

1 delayed effective date)

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

1 out-of-State pursuant to a waiver provided under this Section.

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

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

21 (35 ILCS 143/10-21)

22 (This Section may contain text from a Public Act with a  
23 delayed effective date)

24 Sec. 10-21. Retailer's license. Beginning on January 1,



1 2016, no person may engage in business as a retailer of tobacco  
2 products in this State without first having obtained a license  
3 from the Department. Application for license shall be made to  
4 the Department, by electronic means, in a form prescribed by  
5 the Department. Each applicant for a license under this Section  
6 shall furnish to the Department, in an electronic format  
7 established by the Department, the following information:

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

9 (2) the address of the location at which the applicant  
10 proposes to engage in business as a retailer of tobacco  
11 products in this State;

12 (3) such other additional information as the  
13 Department may lawfully require by its rules and  
14 regulations.

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

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

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

5           The following are ineligible to receive a retailer's  
6 license under this Act:

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

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

19           The Department, upon receipt of an application and license  
20 fee, in proper form, from a person who is eligible to receive a  
21 retailer's license under this Act, shall issue to such  
22 applicant a license in form as prescribed by the Department,  
23 which license shall permit the applicant to which it is issued  
24 to engage in business as a retailer under this Act at the place  
25 shown in his application. All licenses issued by the Department  
26 under this Section shall be valid for a period not to exceed

1 one year after issuance unless sooner revoked, canceled or  
2 suspended as provided in this Act. No license issued under this  
3 Section is transferable or assignable. Such license shall be  
4 conspicuously displayed in the place of business conducted by  
5 the licensee in Illinois under such license. A person who  
6 obtains a license as a retailer who ceases to do business as  
7 specified in the license, or who never commenced business, ~~or~~  
8 ~~who obtains a distributor's license,~~ or whose license is  
9 suspended or revoked, shall immediately surrender the license  
10 to the Department. The Department shall not issue a license to  
11 a retailer unless the retailer is also validly registered under  
12 the Retailers Occupation Tax Act.

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

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

1 determination being made or notice given.

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

3 (35 ILCS 143/10-25)

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

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

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

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

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

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

3 Sec. 10-25. License actions.

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

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

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

25 If the retailer does not have a training program that

1 facilitates compliance with minimum-age tobacco laws, the  
2 Department shall suspend for 3 days the license of that  
3 retailer for a second violation of the Prevention of Tobacco  
4 Use by Minors and Sale and Distribution of Tobacco Products  
5 Act, as provided in subsection (a-5) of Section 2 of that Act.

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

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

19 A training program that facilitates compliance with  
20 minimum-age tobacco laws must include at least the following  
21 elements: (i) it must explain that only individuals displaying  
22 valid identification demonstrating that they are 18 years of  
23 age or older shall be eligible to purchase cigarettes or  
24 tobacco products and † (ii) it must explain where a clerk can  
25 check identification for a date of birth, ~~and (iii) it must~~  
26 ~~explain the penalties that a clerk and retailer are subject to~~

1 ~~for violations of the Prevention of Tobacco Use by Minors and~~  
2 ~~Sale and Distribution of Tobacco Products Act. The training may~~  
3 ~~be conducted electronically. Each retailer that has a training~~  
4 ~~program shall require each employee who completes the training~~  
5 ~~program to sign a form attesting that the employee has received~~  
6 ~~and completed tobacco training. The form shall be kept in the~~  
7 ~~employee's file and may be used to provide proof of training.~~

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

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

20 (35 ILCS 143/10-35)

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

22 Sec. 10-35. Record keeping. Every distributor, as defined  
23 in Section 10-5, shall keep complete and accurate records of  
24 tobacco products held, purchased, manufactured, brought in or  
25 caused to be brought in from without the State, and tobacco

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

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

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

19 Sec. 10-35. Record keeping.

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



1 wholesale price for tobacco products sold or otherwise disposed  
2 of, an inventory of tobacco products prepared as of December 31  
3 of each year or as of the last day of the distributor's fiscal  
4 year if he or she files federal income tax returns on the basis  
5 of a fiscal year, and other pertinent papers and documents  
6 relating to the manufacture, purchase, sale, or disposition of  
7 tobacco products. Every sales invoice issued by a licensed  
8 distributor to a retailer in this State shall contain the  
9 distributor's Tobacco Products License number unless the  
10 distributor has been granted a waiver by the Department in  
11 response to a written request in cases where (i) the  
12 distributor sells little cigars or other tobacco products only  
13 to licensed retailers that are wholly-owned by the distributor  
14 or owned by a wholly-owned subsidiary of the distributor; (ii)  
15 the licensed retailer obtains little cigars or other tobacco  
16 products only from the distributor requesting the waiver; and  
17 (iii) the distributor affixes the tax stamps to the original  
18 packages of little cigars or has or will pay the tax on the  
19 other tobacco products sold to the licensed retailer. The  
20 distributor shall file a written request with the Department,  
21 and, if the Department determines that the distributor meets  
22 the conditions for a waiver, the Department shall grant the  
23 waiver.

24 (b) Every retailer, as defined in Section 10-5, shall keep  
25 complete and accurate records of tobacco products held,  
26 purchased, sold, or otherwise disposed of, and shall preserve

1 and keep all invoices, bills of lading, sales records, and  
2 copies of bills of sale, returns and other pertinent papers and  
3 documents relating to the purchase, sale, or disposition of  
4 tobacco products. Such records need not be maintained on the  
5 licensed premises, but must be maintained in the State of  
6 Illinois; however, if access is available electronically, the  
7 records may be maintained out of state. However, all original  
8 invoices or copies thereof covering purchases of tobacco  
9 products must be retained on the licensed premises for a period  
10 of 90 days after such purchase, unless the Department has  
11 granted a waiver in response to a written request in cases  
12 where records are kept at a central business location within  
13 the State of Illinois or in cases where records that are  
14 available electronically are maintained out of state. The  
15 Department shall adopt rules regarding the eligibility for a  
16 waiver, revocation of a waiver, and requirements and standards  
17 for maintenance and accessibility of records located at a  
18 central location out-of-State pursuant to a waiver provided  
19 under this Section.

20 (c) Books, records, papers, and documents that are required  
21 by this Act to be kept shall, at all times during the usual  
22 business hours of the day, be subject to inspection by the  
23 Department or its duly authorized agents and employees. The  
24 books, records, papers, and documents for any period with  
25 respect to which the Department is authorized to issue a notice  
26 of tax liability shall be preserved until the expiration of

1 that period.

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

3 Section 15. The Prevention of Tobacco Use by Minors and  
4 Sale and Distribution of Tobacco Products Act is amended by  
5 changing Section 2 as follows:

6 (720 ILCS 675/2) (from Ch. 23, par. 2358)

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

8 Sec. 2. Penalties.

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

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

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

22 (d) A third or subsequent violation by a minor of  
23 subsection (a-7) of Section 1 that occurs within 12 months  
24 after the first violation is punishable by a \$100 fine and 30

1 hours of community service.

2 (e) Any second or subsequent violation not within the  
3 12-month time period after the first violation is punishable as  
4 provided for a first violation.

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

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

26 (h) All moneys collected as fines for violations of

1 subsection (a), (a-5), (a-6), or (a-7) of Section 1 shall be  
2 distributed in the following manner:

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

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

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

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

10 Sec. 2. Penalties.

11 (a) Any person who violates subsection (a) or (a-5) of  
12 Section 1 or Section 1.5 of this Act is guilty of a petty  
13 offense. For the first offense in a 24-month period, the person  
14 shall be fined \$200 if his or her employer has a training  
15 program that facilitates compliance with minimum-age tobacco  
16 laws. For the second offense in a 24-month period, the person  
17 shall be fined \$400 if his or her employer has a training  
18 program that facilitates compliance with minimum-age tobacco  
19 laws. For the third offense in a 24-month period, the person  
20 shall be fined \$600 if his or her employer has a training  
21 program that facilitates compliance with minimum-age tobacco  
22 laws. For the fourth or subsequent offense in a 24-month  
23 period, the person shall be fined \$800 if his or her employer  
24 has a training program that facilitates compliance with  
25 minimum-age tobacco laws. For the purposes of this subsection,

1 the 24-month period shall begin with the person's first  
2 violation of the Act. The penalties in this subsection are in  
3 addition to any other penalties prescribed under the Cigarette  
4 Tax Act and the Tobacco Products Tax Act of 1995.

5 (a-5) Any person who violates subsection (a) or (a-5) of  
6 Section 1 or Section 1.5 of this Act is guilty of a petty  
7 offense. For the first offense, the retailer shall be fined  
8 \$200 if it does not have a training program that facilitates  
9 compliance with minimum-age tobacco laws. For the second  
10 offense, the retailer shall be fined \$400 if it does not have a  
11 training program that facilitates compliance with minimum-age  
12 tobacco laws. For the third offense, the retailer shall be  
13 fined \$600 if it does not have a training program that  
14 facilitates compliance with minimum-age tobacco laws. For the  
15 fourth or subsequent offense in a 24-month period, the retailer  
16 shall be fined \$800 if it does not have a training program that  
17 facilitates compliance with minimum-age tobacco laws. For the  
18 purposes of this subsection, the 24-month period shall begin  
19 with the person's first violation of the Act. The penalties in  
20 this subsection are in addition to any other penalties  
21 prescribed under the Cigarette Tax Act and the Tobacco Products  
22 Tax Act of 1995.

23 (a-6) For the purpose of this Act, a training program that  
24 facilitates compliance with minimum-age tobacco laws must  
25 include at least the following elements: (i) it must explain  
26 that only individuals displaying valid identification

1 demonstrating that they are 18 years of age or older shall be  
2 eligible to purchase cigarettes or tobacco products and † (ii)  
3 it must explain where a clerk can check identification for a  
4 date of birth; ~~and (iii) it must explain the penalties that a~~  
5 ~~clerk and retailer are subject to for violations of the~~  
6 ~~Prevention of Tobacco Use by Minors and Sale and Distribution~~  
7 ~~of Tobacco Products Act.~~ The training may be conducted  
8 electronically. Each retailer that has a training program shall  
9 require each employee who completes the training program to  
10 sign a form attesting that the employee has received and  
11 completed tobacco training. The form shall be kept in the  
12 employee's file and may be used to provide proof of training.

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

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

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

26 (e) Any second or subsequent violation not within the

1 12-month time period after the first violation is punishable as  
2 provided for a first violation.

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

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

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



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

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

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

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

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