



Sen. Antonio Muñoz

Filed: 4/22/2015

09900SB0509sam001

LRB099 03061 HLH 34404 a

1 AMENDMENT TO SENATE BILL 509

2 AMENDMENT NO. _____. Amend Senate Bill 509 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Cigarette Tax Act is amended by changing
5 Section 1 as follows:

6 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

7 Sec. 1. For the purposes of this Act:

8 "Brand Style" means a variety of cigarettes distinguished
9 by the tobacco used, tar and nicotine content, flavoring used,
10 size of the cigarette, filtration on the cigarette or
11 packaging.

12 Until July 1, 2012, and beginning July 1, 2013,
13 "cigarette", means any roll for smoking made wholly or in part
14 of tobacco irrespective of size or shape and whether or not
15 such tobacco is flavored, adulterated or mixed with any other
16 ingredient, and the wrapper or cover of which is made of paper

1 or any other substance or material except tobacco.

2 "Cigarette", beginning on and after July 1, 2012, and
3 through June 30, 2013, means any roll for smoking made wholly
4 or in part of tobacco irrespective of size or shape and whether
5 or not such tobacco is flavored, adulterated, or mixed with any
6 other ingredient, and the wrapper or cover of which is made of
7 paper.

8 "Cigarette", beginning on and after July 1, 2012, and
9 through June 30, 2013, also shall mean: Any roll for smoking
10 made wholly or in part of tobacco labeled as anything other
11 than a cigarette or not bearing a label, if it meets two or
12 more of the following criteria:

13 (a) the product is sold in packs similar to cigarettes;

14 (b) the product is available for sale in cartons of ten
15 packs;

16 (c) the product is sold in soft packs, hard packs,
17 flip-top boxes, clam shells, or other cigarette-type
18 boxes;

19 (d) the product is of a length and diameter similar to
20 commercially manufactured cigarettes;

21 (e) the product has a cellulose acetate or other
22 integrated filter;

23 (f) the product is marketed or advertised to consumers
24 as a cigarette or cigarette substitute; or

25 (g) other evidence that the product fits within the
26 definition of cigarette.

1 "Contraband cigarettes" means:

2 (a) cigarettes that do not bear a required tax stamp
3 under this Act;

4 (b) cigarettes for which any required federal taxes
5 have not been paid;

6 (c) cigarettes that bear a counterfeit tax stamp;

7 (d) cigarettes that are manufactured, fabricated,
8 assembled, processed, packaged, or labeled by any person
9 other than (i) the owner of the trademark rights in the
10 cigarette brand or (ii) a person that is directly or
11 indirectly authorized by such owner;

12 (e) cigarettes imported into the United States, or
13 otherwise distributed, in violation of the federal
14 Imported Cigarette Compliance Act of 2000 (Title IV of
15 Public Law 106-476);

16 (f) cigarettes that have false manufacturing labels;

17 (g) cigarettes identified in Section 3-10(a)(1) of
18 this Act;

19 (h) cigarettes that are improperly tax stamped,
20 including cigarettes that bear a tax stamp of another state
21 or taxing jurisdiction, or lack a tax stamp required by any
22 political subdivision of Illinois; or

23 (i) cigarettes made or fabricated by a person holding a
24 cigarette machine operator license under Section 1-20 of
25 the Cigarette Machine Operators' Occupation Tax Act in the
26 possession of manufacturers, distributors, secondary

1 distributors, manufacturer representatives or other
2 retailers for the purpose of resale, regardless of whether
3 the tax has been paid on such cigarettes.

4 "Little cigar" has the meaning ascribed to that term in the
5 Tobacco Products Tax Act of 1995.

6 "Person" means any natural individual, firm, partnership,
7 association, joint stock company, joint adventure, public or
8 private corporation, however formed, limited liability
9 company, or a receiver, executor, administrator, trustee,
10 guardian or other representative appointed by order of any
11 court.

12 "Prior Continuous Compliance Taxpayer" means any person
13 who is licensed under this Act and who, having been a licensee
14 for a continuous period of 5 years, is determined by the
15 Department not to have been either delinquent or deficient in
16 the payment of tax liability during that period or otherwise in
17 violation of this Act. Also, any taxpayer who has, as verified
18 by the Department, continuously complied with the condition of
19 his bond or other security under provisions of this Act for a
20 period of 5 consecutive years shall be considered to be a
21 "Prior continuous compliance taxpayer". In calculating the
22 consecutive period of time described herein for qualification
23 as a "prior continuous compliance taxpayer", a consecutive
24 period of time of qualifying compliance immediately prior to
25 the effective date of this amendatory Act of 1987 shall be
26 credited to any licensee who became licensed on or before the

1 effective date of this amendatory Act of 1987.

2 "Department" means the Department of Revenue.

3 "Sale" means any transfer, exchange or barter in any manner
4 or by any means whatsoever for a consideration, and includes
5 and means all sales made by any person.

6 "Original Package" means the individual packet, box or
7 other container whatsoever used to contain and to convey
8 cigarettes to the consumer.

9 "Distributor" means any and each of the following:

10 (1) Any person engaged in the business of selling
11 cigarettes in this State who brings or causes to be brought
12 into this State from without this State any original
13 packages of cigarettes, on which original packages there is
14 no authorized evidence underneath a sealed transparent
15 wrapper showing that the tax liability imposed by this Act
16 has been paid or assumed by the out-of-State seller of such
17 cigarettes, for sale or other disposition in the course of
18 such business.

19 (2) Any person who makes, manufactures or fabricates
20 cigarettes in this State for sale in this State, except a
21 person who makes, manufactures or fabricates cigarettes as
22 a part of a correctional industries program for sale to
23 residents incarcerated in penal institutions or resident
24 patients of a State-operated mental health facility.

25 (3) Any person who makes, manufactures or fabricates
26 cigarettes outside this State, which cigarettes are placed

1 in original packages contained in sealed transparent
2 wrappers, for delivery or shipment into this State, and who
3 elects to qualify and is accepted by the Department as a
4 distributor under Section 4b of this Act.

5 "Place of business" shall mean and include any place where
6 cigarettes are sold or where cigarettes are manufactured,
7 stored or kept for the purpose of sale or consumption,
8 including any vessel, vehicle, airplane, train or vending
9 machine.

10 "Manufacturer representative" means a director, officer,
11 or employee of a manufacturer who has obtained authority from
12 the Department under Section 4f to maintain representatives in
13 Illinois that provide or sell original packages of cigarettes
14 made, manufactured, or fabricated by the manufacturer to
15 retailers in compliance with Section 4f of this Act to promote
16 cigarettes made, manufactured, or fabricated by the
17 manufacturer.

18 "Business" means any trade, occupation, activity or
19 enterprise engaged in for the purpose of selling cigarettes in
20 this State.

21 "Retailer" means any person who engages in the making of
22 transfers of the ownership of, or title to, cigarettes to a
23 purchaser for use or consumption and not for resale in any
24 form, for a valuable consideration. "Retailer" does not include
25 a person:

26 (1) who transfers to residents incarcerated in penal

1 institutions or resident patients of a State-operated
2 mental health facility ownership of cigarettes made,
3 manufactured, or fabricated as part of a correctional
4 industries program; or

5 (2) who transfers cigarettes to a not-for-profit
6 research institution that conducts tests concerning the
7 health effects of tobacco products and who does not offer
8 the cigarettes for resale.

9 "Retailer" shall be construed to include any person who
10 engages in the making of transfers of the ownership of, or
11 title to, cigarettes to a purchaser, for use or consumption by
12 any other person to whom such purchaser may transfer the
13 cigarettes without a valuable consideration, except a person
14 who transfers to residents incarcerated in penal institutions
15 or resident patients of a State-operated mental health facility
16 ownership of cigarettes made, manufactured or fabricated as
17 part of a correctional industries program.

18 "Secondary distributor" means any person engaged in the
19 business of selling cigarettes who purchases stamped original
20 packages of cigarettes from a licensed distributor under this
21 Act or the Cigarette Use Tax Act, sells 75% or more of those
22 cigarettes to retailers for resale, and maintains an
23 established business where a substantial stock of cigarettes is
24 available to retailers for resale.

25 "Stamp" or "stamps" mean the indicia required to be affixed
26 on a pack of cigarettes that evidence payment of the tax on

1 cigarettes under Section 2 of this Act.

2 "Related party" means any person that is associated with
3 any other person because he or she:

4 (a) is an officer or director of a business; or

5 (b) is legally recognized as a partner in business.

6 (Source: P.A. 97-587, eff. 8-26-11; 97-688, eff. 6-14-12;
7 98-273, eff. 8-9-13.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law."