

AN ACT concerning revenue.

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

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

(35 ILCS 130/4g)

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

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

(1) the name and address of the applicant;

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

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

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

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

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

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

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

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

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

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

Any person aggrieved by any decision of the Department

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

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

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

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

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

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

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

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

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

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

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

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

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

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

provided for by this Act, revoke, cancel or suspend the license of any distributor, secondary distributor, or retailer for the violation of any provision of this Act, or for noncompliance with any provision herein contained, or for any noncompliance with any lawful rule or regulation promulgated by the Department under Section 8 of this Act, or because the licensee is determined to be ineligible for a distributor's license for any one or more of the reasons provided for in Section 4 of this Act, or because the licensee is determined to be ineligible for a secondary distributor's license for any one or more of the reasons provided for in Section 4c of this Act, or because the licensee is determined to be ineligible for a retailer's license for any one or more of the reasons provided for in Section 4g of this Act. However, no such license shall be revoked, cancelled or suspended, except after a hearing by the Department with notice to the distributor, secondary distributor, or retailer, as aforesaid, and affording such distributor, secondary distributor, or retailer a reasonable opportunity to appear and defend, and any distributor, secondary distributor, or retailer aggrieved by any decision of the Department with respect thereto may have the determination of the Department judicially reviewed, as herein provided.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(35 ILCS 130/11c)

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

delayed effective date)

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

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

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

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

(35 ILCS 143/10-21)

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

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

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

- (1) the name and address of the applicant;
- (2) the address of the location at which the applicant proposes to engage in business as a retailer of tobacco products in this State;
- (3) such other additional information as the Department may lawfully require by its rules and regulations.

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

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

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

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

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

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

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

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

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

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

determination being made or notice given.

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

(35 ILCS 143/10-25)

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

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

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

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

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

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

Sec. 10-25. License actions.

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

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

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

If the retailer does not have a training program that

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

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

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

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

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

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

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

(35 ILCS 143/10-35)

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

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

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

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

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

Sec. 10-35. Record keeping.

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

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

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

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

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

that period.

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

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

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

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

Sec. 2. Penalties.

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

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

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

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

hours of community service.

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

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

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

(h) All moneys collected as fines for violations of

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

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

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

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

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

Sec. 2. Penalties.

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

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

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

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

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

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

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

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

(e) Any second or subsequent violation not within the

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

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

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

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

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

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

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

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

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