

1 AN ACT in relation to tobacco.

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

4 Section 5. The Sale of Tobacco to Minors Act is amended
5 by changing Sections 1 and 2 and adding Sections 0.05, 1.1,
6 1.2, and 1.3 as follows:

7 (720 ILCS 675/0.05 new)

8 Sec. 0.05. Definitions. As used in this Act:

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

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

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

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

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

28 "Distribute" means to give, sell, deliver, dispense, or
29 issue or offer to give, sell, deliver, dispense, or issue, or
30 cause or hire any person to give, sell, deliver, dispense,
31 issue, or offer to give, sell, deliver, dispense, or issue.

1 "Public place" means any area to which the public is
2 invited or permitted.

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

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

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

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

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

24 Sec. 1. No minor under 18 years of age shall buy any
25 cigar, cigarette, smokeless tobacco or tobacco in any of its
26 forms. No retailer ~~person~~ shall sell, buy for, distribute
27 samples of or furnish any ~~cigar, cigarette, smokeless tobacco~~
28 or tobacco product in any of its forms, to any minor under 18
29 years of age.

30 For the purpose of this Section, "smokeless tobacco"
31 means any tobacco products that are suitable for dipping or
32 chewing.

33 Tobacco products ~~listed above~~ may be sold through a

1 vending machine only in the following locations:

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

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

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

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

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

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

23 (720 ILCS 675/1.1 new)

24 Sec. 1.1. Prohibitions on distribution of tobacco
25 products.

26 (a) Each retailer shall request and examine the
27 photographic identification of any person purchasing tobacco
28 products to verify that the purchaser is over 18 years of
29 age. No such verification is required for any person who
30 appears without reasonable doubt to be over 27 years of age.

31 (b) No retailer may break or otherwise open a cigarette
32 or smokeless tobacco package to distribute individual
33 cigarettes or a number of unpackaged cigarettes that is

1 smaller than the minimum cigarette package size of 20
2 cigarettes or any quantity of cigarette tobacco or smokeless
3 tobacco that is smaller than the smallest package distributed
4 by the manufacturer for individual consumer use.

5 (c) No person shall give away, barter, exchange,
6 distribute or in any way dispense free of charge or at
7 nominal cost any tobacco product samples or any coupon
8 redeemable for any tobacco products (i) on any public street,
9 alley, sidewalk; (ii) in any public park, ground, or
10 playground; (iii) in any area open to the public in any
11 publicly owned or operated building; or (iv) at any place
12 located within 500 feet of any building or other location
13 used primarily as a school, child care facility, or for the
14 education or recreation of children under 18 years of age.

15 (d) No retailer shall distribute tobacco products at any
16 place located within 500 feet of any building or other
17 location used primarily as a school, child care facility, or
18 for the education or recreation of children under 18 years of
19 age. This prohibition shall not apply to any business
20 engaged in the retail sale of tobacco products from a
21 location from which it was selling tobacco products on the
22 effective date of this Act. This exemption shall apply to any
23 new owner at the same location providing the same service.

24 (720 ILCS 675/1.2 new)

25 Sec. 1.2. Vending machine signs.

26 (a) A retailer of tobacco products shall place and
27 maintain, in legible condition, at each point of sale of
28 tobacco products to consumers, including the front of each
29 vending machine, a sign stating:

30 "WARNING

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

1 The sign shall not be less than 8 inches by 11 inches in
2 size, except for a sign placed on the front of a vending
3 machine. The sign for a vending machine shall not be less
4 than 4 inches by 4 inches in size. The text of the sign
5 shall be in red letters at least one inch high on a white
6 background.

7 (b) The Department of Public Health shall issue an
8 adhesive self-voiding license emblem to be placed on each
9 licensed tobacco product vending machine. Each license
10 emblem shall be coded to identify the retailer who has
11 control over each tobacco product vending machine. The
12 license emblem shall bear the words "Licensed Tobacco Product
13 Vending Machine". The license shall designate the period for
14 which the license is valid, shall contain a reproduction of
15 the State seal, shall contain a space for a brief description
16 of the name, style, and type of vending machine to be
17 licensed and the location of the vending machine. A
18 replacement license emblem will not be issued unless the
19 application for the replacement emblem is accompanied by a
20 police report of the incident in which the emblem to be
21 replaced was lost, stolen, or mutilated or unless the
22 remnants of the emblem being replaced are submitted with the
23 replacement application.

24 (720 ILCS 675/1.3 new)

25 Sec. 1.3. Licensing of tobacco product retailers.

26 (a) Beginning July 1, 2002, no person shall engage in
27 the retail sale of tobacco products or operate a facility
28 containing vending machines that dispense tobacco products
29 unless the person is authorized to do so by a license issued
30 pursuant to this Act or is an employee or agent of a person
31 who has been issued a license pursuant to this Act. A
32 separate license must be obtained for each point of sale
33 maintained by the retailer. A license to sell tobacco

1 products shall be displayed prominently at the point of sale
2 for which it is issued.

3 (b) The Department of Public Health shall administer the
4 licensing of retailers of tobacco products and shall approve
5 or deny all applications for licenses and revoke existing
6 licenses pursuant to this Act.

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

11 (1) the applicant's full name, the address and
12 telephone number where the applicant is engaged in the
13 business of the retail sale of tobacco products, and the
14 name, address, and telephone number of a person
15 authorized to receive notices issued pursuant to this
16 Act;

17 (2) if the applicant is a corporation, the
18 corporate name, the address and telephone number of its
19 principal place of business, the date and state of
20 incorporation, the names of the corporate officers, and
21 the name, address, and telephone number of a person
22 authorized to receive notices issued pursuant to this
23 Act;

24 (3) if the applicant is a partnership, the name,
25 address, and telephone number of the principal place of
26 business, the names of all partners, and the name,
27 address, and telephone number of a person authorized to
28 receive notices issued pursuant to this Act. Any retailer
29 whose license is revoked for violating this Act shall be
30 prohibited from obtaining a tobacco retailer's license
31 for one year.

32 (d) Every retailer's license shall be issued for an
33 annual period beginning January 1 of a given year and ending
34 December 31 of that year. Each license shall expire on the

1 last day of the license year for which the license was
2 issued.

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

8 (f) The transfer of any license issued pursuant to this
9 Act is prohibited. Any such purported transfer is void.

10 (720 ILCS 675/2) (from Ch. 23, par. 2358)

11 Sec. 2. Any retailer person who violates any provision
12 of this Act is guilty of a petty offense and for the first
13 offense shall be fined \$250 ~~\$200~~, \$500 and a 30 day
14 suspension of that retailer's license ~~\$400~~ for the second
15 offense in a 12-month period, and \$1,000 and a one year
16 suspension of that retailer's license ~~\$600~~ for the third or
17 any subsequent offense in a 12-month period. One-half of each
18 fine collected under this Section shall be distributed to the
19 unit of local government or other entity that successfully
20 prosecuted the offender and one-half shall be remitted to the
21 State to be used for enforcing this Act. Any person who sells
22 tobacco products without a license as required by this Act or
23 after a suspension of a license pursuant to this Act is
24 guilty of a petty offense and shall be fined \$500. Each
25 instance in which a person sells tobacco products without a
26 valid license shall constitute a separate and distinct
27 violation.

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

29 Section 95. Severability. The provisions of this Act are
30 severable under Section 1.31 of the Statute on Statutes.