

1 AN ACT concerning tobacco.

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

4 Section 1. Short Title. This Act may be cited as the  
5 Tobacco Product Manufacturers' Escrow Enforcement Act.

6 Section 5. Definitions. As used in this Act:

7 "Cigarette" has the same meaning as that term is defined  
8 in Section 10 of the Tobacco Product Manufacturers' Escrow  
9 Act.

10 "Distributor" has the same meaning as that term is  
11 defined in Section 1 of the Cigarette Tax Act.

12 "Participating manufacturer" has the same meaning as that  
13 term is defined in subdivision (a)(1) of Section 15 of the  
14 Tobacco Product Manufacturers' Escrow Act.

15 "Qualified escrow fund" has the same meaning as that term  
16 is defined in subdivision (a)(2)(A) of Section 15 of the  
17 Tobacco Product Manufacturers' Escrow Act.

18 "Stamps" means (i) revenue tax stamps as provided for in  
19 Section 3 of the Cigarette Tax Act and (ii) stamps evidencing  
20 the payment of use tax as provided for in Section 3 of the  
21 Cigarette Use Tax Act.

22 "Tobacco product manufacturer" has the same meaning as  
23 that term is defined in Section 10 of the Tobacco Product  
24 Manufacturers' Escrow Act.

25 Section 15. Distributor's determination of tobacco  
26 product manufacturer compliance. A distributor may not affix,  
27 or cause to be affixed, stamps to individual packages of  
28 cigarettes delivered or caused to be delivered by the  
29 distributor in this State if the tobacco product manufacturer  
30 of those cigarettes has:

- 1 (1) failed to become a participating manufacturer; or  
2 (2) failed to create a qualified escrow fund for any  
3 cigarettes manufactured by the tobacco product manufacturer  
4 and sold in this State or otherwise failed to bring itself  
5 into compliance with subdivision (a)(2) of Section 15 of the  
6 Tobacco Product Manufacturers' Escrow Act.

7 Section 20. Penalties. A distributor who violates this  
8 Act is subject to the same penalties as provided in Section 6  
9 of the Cigarette Tax Act or Section 6 of the Cigarette Use  
10 Tax Act, as appropriate.

11 Section 25. Rules. The Illinois Attorney General, in  
12 consultation with the Illinois Department of Revenue, shall  
13 adopt rules as necessary to effectuate compliance with this  
14 Act and with the Tobacco Product Manufacturers' Escrow Act.

15 Section 905. The Tobacco Product Manufacturers' Escrow  
16 Act is amended by adding Section 20 as follows:

17 (30 ILCS 168/20 new)

18 Sec. 20. Rules. The Illinois Attorney General, in  
19 consultation with the Illinois Department of Revenue, shall  
20 adopt rules as provided under Section 25 of the Tobacco  
21 Product Manufacturers' Escrow Enforcement Act.

22 Section 910. The Cigarette Tax Act is amended by  
23 changing Sections 3 and 6 as follows:

24 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

25 Sec. 3. Affixing tax stamp; remitting tax to the  
26 Department. Payment of the taxes imposed by Section 2 of  
27 this Act shall (except as hereinafter provided) be evidenced  
28 by revenue tax stamps affixed to each original package of

1 cigarettes. Each distributor of cigarettes, before delivering  
2 or causing to be delivered any original package of cigarettes  
3 in this State to a purchaser, shall firmly affix a proper  
4 stamp or stamps to each such package, or (in case of  
5 manufacturers of cigarettes in original packages which are  
6 contained inside a sealed transparent wrapper) shall imprint  
7 the required language on the original package of cigarettes  
8 beneath such outside wrapper, as hereinafter provided.

9 No stamp or imprint may be affixed to, or made upon, any  
10 package of cigarettes unless that package complies with all  
11 requirements of the federal Cigarette Labeling and  
12 Advertising Act, 15 U.S.C. 1331 and following, for the  
13 placement of labels, warnings, or any other information upon  
14 a package of cigarettes that is sold within the United  
15 States. Under the authority of Section 6, the Department  
16 shall revoke the license of any distributor that is  
17 determined to have violated this paragraph. A person may not  
18 affix a stamp on a package of cigarettes, cigarette papers,  
19 wrappers, or tubes if that individual package has been marked  
20 for export outside the United States with a label or notice  
21 in compliance with Section 290.185 of Title 27 of the Code of  
22 Federal Regulations. It is not a defense to a proceeding for  
23 violation of this paragraph that the label or notice has been  
24 removed, mutilated, obliterated, or altered in any manner.

25 The Department, or any person authorized by the  
26 Department, shall sell such stamps only to persons holding  
27 valid licenses as distributors under this Act. The Department  
28 may refuse to sell stamps to any person who does not comply  
29 with the provisions of this Act.

30 Prior to December 1, 1985, the Department shall allow a  
31 distributor 21 days in which to make final payment of the  
32 amount to be paid for such stamps, by allowing the  
33 distributor to make payment for the stamps at the time of  
34 purchasing them with a draft which shall be in such form as

1 the Department prescribes, and which shall be payable within  
2 21 days thereafter: Provided that such distributor has filed  
3 with the Department, and has received the Department's  
4 approval of, a bond, which is in addition to the bond  
5 required under Section 4 of this Act, payable to the  
6 Department in an amount equal to 80% of such distributor's  
7 average monthly tax liability to the Department under this  
8 Act during the preceding calendar year or \$500,000, whichever  
9 is less. The Bond shall be joint and several and shall be in  
10 the form of a surety company bond in such form as the  
11 Department prescribes, or it may be in the form of a bank  
12 certificate of deposit or bank letter of credit. The bond  
13 shall be conditioned upon the distributor's payment of amount  
14 of any 21-day draft which the Department accepts from that  
15 distributor for the delivery of stamps to that distributor  
16 under this Act. The distributor's failure to pay any such  
17 draft, when due, shall also make such distributor  
18 automatically liable to the Department for a penalty equal to  
19 25% of the amount of such draft.

20 On and after December 1, 1985, the Department shall allow  
21 a distributor 30 days in which to make final payment of the  
22 amount to be paid for such stamps, by allowing the  
23 distributor to make payment for the stamps at the time of  
24 purchasing them with a draft which shall be in such form as  
25 the Department prescribes, and which shall be payable within  
26 30 days thereafter, and beginning on January 1, 2003 and  
27 thereafter, the draft shall be payable by means of electronic  
28 funds transfer: Provided that such distributor has filed  
29 with the Department, and has received the Department's  
30 approval of, a bond, which is in addition to the bond  
31 required under Section 4 of this Act, payable to the  
32 Department in an amount equal to 150% of such distributor's  
33 average monthly tax liability to the Department under this  
34 Act during the preceding calendar year or \$750,000, whichever

1 is less, except that as to bonds filed on or after January 1,  
2 1987, such additional bond shall be in an amount equal to  
3 100% of such distributor's average monthly tax liability  
4 under this Act during the preceding calendar year or  
5 \$750,000, whichever is less. The bond shall be joint and  
6 several and shall be in the form of a surety company bond in  
7 such form as the Department prescribes, or it may be in the  
8 form of a bank certificate of deposit or bank letter of  
9 credit. The bond shall be conditioned upon the distributor's  
10 payment of the amount of any 30-day draft which the  
11 Department accepts from that distributor for the delivery of  
12 stamps to that distributor under this Act. The distributor's  
13 failure to pay any such draft, when due, shall also make such  
14 distributor automatically liable to the Department for a  
15 penalty equal to 25% of the amount of such draft.

16 Every prior continuous compliance taxpayer shall be  
17 exempt from all requirements under this Section concerning  
18 the furnishing of such bond, as defined in this Section, as a  
19 condition precedent to his being authorized to engage in the  
20 business licensed under this Act. This exemption shall  
21 continue for each such taxpayer until such time as he may be  
22 determined by the Department to be delinquent in the filing  
23 of any returns, or is determined by the Department (either  
24 through the Department's issuance of a final assessment which  
25 has become final under the Act, or by the taxpayer's filing  
26 of a return which admits tax to be due that is not paid) to  
27 be delinquent or deficient in the paying of any tax under  
28 this Act, at which time that taxpayer shall become subject to  
29 the bond requirements of this Section and, as a condition of  
30 being allowed to continue to engage in the business licensed  
31 under this Act, shall be required to furnish bond to the  
32 Department in such form as provided in this Section. Such  
33 taxpayer shall furnish such bond for a period of 2 years,  
34 after which, if the taxpayer has not been delinquent in the

1 filing of any returns, or delinquent or deficient in the  
2 paying of any tax under this Act, the Department may  
3 reinstate such person as a prior continuance compliance  
4 taxpayer. Any taxpayer who fails to pay an admitted or  
5 established liability under this Act may also be required to  
6 post bond or other acceptable security with the Department  
7 guaranteeing the payment of such admitted or established  
8 liability.

9 Any person aggrieved by any decision of the Department  
10 under this Section may, within the time allowed by law,  
11 protest and request a hearing, whereupon the Department shall  
12 give notice and shall hold a hearing in conformity with the  
13 provisions of this Act and then issue its final  
14 administrative decision in the matter to such person. In the  
15 absence of such a protest filed within the time allowed by  
16 law, the Department's decision shall become final without any  
17 further determination being made or notice given.

18 The Department shall discharge any surety and shall  
19 release and return any bond or security deposited, assigned,  
20 pledged, or otherwise provided to it by a taxpayer under this  
21 Section within 30 days after:

22 (1) Such taxpayer becomes a prior continuous compliance  
23 taxpayer; or

24 (2) Such taxpayer has ceased to collect receipts on  
25 which he is required to remit tax to the Department, has  
26 filed a final tax return, and has paid to the Department an  
27 amount sufficient to discharge his remaining tax liability as  
28 determined by the Department under this Act. The Department  
29 shall make a final determination of the taxpayer's  
30 outstanding tax liability as expeditiously as possible after  
31 his final tax return has been filed. If the Department  
32 cannot make such final determination within 45 days after  
33 receiving the final tax return, within such period it shall  
34 so notify the taxpayer, stating its reasons therefor.

1           The Department may authorize distributors to affix  
2 revenue tax stamps by imprinting tax meter stamps upon  
3 original packages of cigarettes. The Department shall adopt  
4 rules and regulations relating to the imprinting of such tax  
5 meter stamps as will result in payment of the proper taxes as  
6 herein imposed. No distributor may affix revenue tax stamps  
7 to original packages of cigarettes by imprinting tax meter  
8 stamps thereon unless such distributor has first obtained  
9 permission from the Department to employ this method of  
10 affixation. The Department shall regulate the use of tax  
11 meters and may, to assure the proper collection of the taxes  
12 imposed by this Act, revoke or suspend the privilege,  
13 theretofore granted by the Department to any distributor, to  
14 imprint tax meter stamps upon original packages of  
15 cigarettes.

16           Illinois cigarette manufacturers who place their  
17 cigarettes in original packages which are contained inside a  
18 sealed transparent wrapper, and similar out-of-State  
19 cigarette manufacturers who elect to qualify and are accepted  
20 by the Department as distributors under Section 4b of this  
21 Act, shall pay the taxes imposed by this Act by remitting the  
22 amount thereof to the Department by the 5th day of each month  
23 covering cigarettes shipped or otherwise delivered in  
24 Illinois to purchasers during the preceding calendar month.  
25 Such manufacturers of cigarettes in original packages which  
26 are contained inside a sealed transparent wrapper, before  
27 delivering such cigarettes or causing such cigarettes to be  
28 delivered in this State to purchasers, shall evidence their  
29 obligation to remit the taxes due with respect to such  
30 cigarettes by imprinting language to be prescribed by the  
31 Department on each original package of such cigarettes  
32 underneath the sealed transparent outside wrapper of such  
33 original package, in such place thereon and in such manner as  
34 the Department may designate. Such imprinted language shall

1 acknowledge the manufacturer's payment of or liability for  
2 the tax imposed by this Act with respect to the distribution  
3 of such cigarettes.

4 A distributor may not affix, or cause to be affixed,  
5 stamps to individual packages of cigarettes delivered or  
6 caused to be delivered by the distributor in this State  
7 unless the distributor complies with Section 15 of the  
8 Tobacco Product Manufacturers' Escrow Enforcement Act.

9 (Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

10 (35 ILCS 130/6) (from Ch. 120, par. 453.6)

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

28 The Department may revoke, cancel, or suspend the license  
29 of any distributor for a violation of the Tobacco Product  
30 Manufacturers' Escrow Enforcement Act as provided in Section  
31 20 of that Act.

32 Any distributor aggrieved by any decision of the  
33 Department under this Section may, within 20 days after



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

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

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

24 (Source: P.A. 91-901, eff. 1-1-01.)

25 Section 915. The Cigarette Use Tax Act is amended by  
26 changing Sections 3 and 6 as follows:

27 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

28 Sec. 3. Stamp payment. The tax hereby imposed shall be  
29 collected by a distributor maintaining a place of business in  
30 this State or a distributor authorized by the Department  
31 pursuant to Section 7 hereof to collect the tax, and the  
32 amount of the tax shall be added to the price of the

1 cigarettes sold by such distributor. Collection of the tax  
2 shall be evidenced by a stamp or stamps affixed to each  
3 original package of cigarettes or by an authorized substitute  
4 for such stamp imprinted on each original package of such  
5 cigarettes underneath the sealed transparent outside wrapper  
6 of such original package, except as hereinafter provided.  
7 Each distributor who is required or authorized to collect the  
8 tax herein imposed, before delivering or causing to be  
9 delivered any original packages of cigarettes in this State  
10 to any purchaser, shall firmly affix a proper stamp or stamps  
11 to each such package, or (in the case of manufacturers of  
12 cigarettes in original packages which are contained inside a  
13 sealed transparent wrapper) shall imprint the required  
14 language on the original package of cigarettes beneath such  
15 outside wrapper as hereinafter provided. Such stamp or stamps  
16 need not be affixed to the original package of any cigarettes  
17 with respect to which the distributor is required to affix a  
18 like stamp or stamps by virtue of the Cigarette Tax Act,  
19 however, and no tax imprint need be placed underneath the  
20 sealed transparent wrapper of an original package of  
21 cigarettes with respect to which the distributor is required  
22 or authorized to employ a like tax imprint by virtue of the  
23 Cigarette Tax Act.

24 No stamp or imprint may be affixed to, or made upon, any  
25 package of cigarettes unless that package complies with all  
26 requirements of the federal Cigarette Labeling and  
27 Advertising Act, 15 U.S.C. 1331 and following, for the  
28 placement of labels, warnings, or any other information upon  
29 a package of cigarettes that is sold within the United  
30 States. Under the authority of Section 6, the Department  
31 shall revoke the license of any distributor that is  
32 determined to have violated this paragraph. A person may not  
33 affix a stamp on a package of cigarettes, cigarette papers,  
34 wrappers, or tubes if that individual package has been marked

1 for export outside the United States with a label or notice  
2 in compliance with Section 290.185 of Title 27 of the Code of  
3 Federal Regulations. It is not a defense to a proceeding for  
4 violation of this paragraph that the label or notice has been  
5 removed, mutilated, obliterated, or altered in any manner.

6 Stamps, when required hereunder, shall be purchased from  
7 the Department, or any person authorized by the Department,  
8 by distributors. The Department may refuse to sell stamps to  
9 any person who does not comply with the provisions of this  
10 Act.

11 Prior to December 1, 1985, the Department shall allow a  
12 distributor 21 days in which to make final payment of the  
13 amount to be paid for such stamps, by allowing the  
14 distributor to make payment for the stamps at the time of  
15 purchasing them with a draft which shall be in such form as  
16 the Department prescribes, and which shall be payable within  
17 21 days thereafter: Provided that such distributor has filed  
18 with the Department, and has received the Department's  
19 approval of, a bond, which is in addition to the bond  
20 required under Section 4 of this Act, payable to the  
21 Department in an amount equal to 80% of such distributor's  
22 average monthly tax liability to the Department under this  
23 Act during the preceding calendar year or \$500,000, whichever  
24 is less. The bond shall be joint and several and shall be in  
25 the form of a surety company bond in such form as the  
26 Department prescribes, or it may be in the form of a bank  
27 certificate of deposit or bank letter of credit. The bond  
28 shall be conditioned upon the distributor's payment of the  
29 amount of any 21-day draft which the Department accepts from  
30 that distributor for the delivery of stamps to that  
31 distributor under this Act. The distributor's failure to pay  
32 any such draft, when due, shall also make such distributor  
33 automatically liable to the Department for a penalty equal to  
34 25% of the amount of such draft.

1           On and after December 1, 1985, the Department shall allow  
2 a distributor 30 days in which to make final payment of the  
3 amount to be paid for such stamps, by allowing the  
4 distributor to make payment for the stamps at the time of  
5 purchasing them with a draft which shall be in such form as  
6 the Department prescribes, and which shall be payable within  
7 30 days thereafter, and beginning on January 1, 2003 and  
8 thereafter, the draft shall be payable by means of electronic  
9 funds transfer: Provided that such distributor has filed  
10 with the Department, and has received the Department's  
11 approval of, a bond, which is in addition to the bond  
12 required under Section 4 of this Act, payable to the  
13 Department in an amount equal to 150% of such distributor's  
14 average monthly tax liability to the Department under this  
15 Act during the preceding calendar year or \$750,000, whichever  
16 is less, except that as to bonds filed on or after January 1,  
17 1987, such additional bond shall be in an amount equal to  
18 100% of such distributor's average monthly tax liability  
19 under this Act during the preceding calendar year or  
20 \$750,000, whichever is less. The bond shall be joint and  
21 several and shall be in the form of a surety company bond in  
22 such form as the Department prescribes, or it may be in the  
23 form of a bank certificate of deposit or bank letter of  
24 credit. The bond shall be conditioned upon the distributor's  
25 payment of the amount of any 30-day draft which the  
26 Department accepts from that distributor for the delivery of  
27 stamps to that distributor under this Act. The distributor's  
28 failure to pay any such draft, when due, shall also make such  
29 distributor automatically liable to the Department for a  
30 penalty equal to 25% of the amount of such draft.

31           Every prior continuous compliance taxpayer shall be  
32 exempt from all requirements under this Section concerning  
33 the furnishing of such bond, as defined in this Section, as a  
34 condition precedent to his being authorized to engage in the

1 business licensed under this Act. This exemption shall  
2 continue for each such taxpayer until such time as he may be  
3 determined by the Department to be delinquent in the filing  
4 of any returns, or is determined by the Department (either  
5 through the Department's issuance of a final assessment which  
6 has become final under the Act, or by the taxpayer's filing  
7 of a return which admits tax to be due that is not paid) to  
8 be delinquent or deficient in the paying of any tax under  
9 this Act, at which time that taxpayer shall become subject to  
10 the bond requirements of this Section and, as a condition of  
11 being allowed to continue to engage in the business licensed  
12 under this Act, shall be required to furnish bond to the  
13 Department in such form as provided in this Section. Such  
14 taxpayer shall furnish such bond for a period of 2 years,  
15 after which, if the taxpayer has not been delinquent in the  
16 filing of any returns, or delinquent or deficient in the  
17 paying of any tax under this Act, the Department may  
18 reinstate such person as a prior continuance compliance  
19 taxpayer. Any taxpayer who fails to pay an admitted or  
20 established liability under this Act may also be required to  
21 post bond or other acceptable security with the Department  
22 guaranteeing the payment of such admitted or established  
23 liability.

24 Any person aggrieved by any decision of the Department  
25 under this Section may, within the time allowed by law,  
26 protest and request a hearing, whereupon the Department shall  
27 give notice and shall hold a hearing in conformity with the  
28 provisions of this Act and then issue its final  
29 administrative decision in the matter to such person. In the  
30 absence of such a protest filed within the time allowed by  
31 law, the Department's decision shall become final without any  
32 further determination being made or notice given.

33 The Department shall discharge any surety and shall  
34 release and return any bond or security deposited, assigned,

1 pledged, or otherwise provided to it by a taxpayer under this  
2 Section within 30 days after:

3 (1) such Taxpayer becomes a prior continuous  
4 compliance taxpayer; or

5 (2) such taxpayer has ceased to collect receipts on  
6 which he is required to remit tax to the Department, has  
7 filed a final tax return, and has paid to the Department  
8 an amount sufficient to discharge his remaining tax  
9 liability as determined by the Department under this Act.  
10 The Department shall make a final determination of the  
11 taxpayer's outstanding tax liability as expeditiously as  
12 possible after his final tax return has been filed. If  
13 the Department cannot make such final determination  
14 within 45 days after receiving the final tax return,  
15 within such period it shall so notify the taxpayer,  
16 stating its reasons therefor.

17 At the time of purchasing such stamps from the Department  
18 when purchase is required by this Act, or at the time when  
19 the tax which he has collected is remitted by a distributor  
20 to the Department without the purchase of stamps from the  
21 Department when that method of remitting the tax that has  
22 been collected is required or authorized by this Act, the  
23 distributor shall be allowed a discount during any year  
24 commencing July 1 and ending the following June 30 in  
25 accordance with the schedule set out hereinbelow, from the  
26 amount to be paid by him to the Department for such stamps,  
27 or to be paid by him to the Department on the basis of  
28 monthly remittances (as the case may be), to cover the cost,  
29 to such distributor, of collecting the tax herein imposed by  
30 affixing such stamps to the original packages of cigarettes  
31 sold by such distributor or by placing tax imprints  
32 underneath the sealed transparent wrapper of original  
33 packages of cigarettes sold by such distributor (as the case  
34 may be): (1) Prior to December 1, 1985, a discount equal to

1 1-2/3% of the amount of the tax up to and including the first  
2 \$700,000 paid hereunder by such distributor to the Department  
3 during any such year; 1-1/3% of the next \$700,000 of tax or  
4 any part thereof, paid hereunder by such distributor to the  
5 Department during any such year; 1% of the next \$700,000 of  
6 tax, or any part thereof, paid hereunder by such distributor  
7 to the Department during any such year; and 2/3 of 1% of the  
8 amount of any additional tax paid hereunder by such  
9 distributor to the Department during any such year or (2) On  
10 and after December 1, 1985, a discount equal to 1.75% of the  
11 amount of the tax payable under this Act up to and including  
12 the first \$3,000,000 paid hereunder by such distributor to  
13 the Department during any such year and 1.5% of the amount of  
14 any additional tax paid hereunder by such distributor to the  
15 Department during any such year.

16 Two or more distributors that use a common means of  
17 affixing revenue tax stamps or that are owned or controlled  
18 by the same interests shall be treated as a single  
19 distributor for the purpose of computing the discount.

20 Cigarette manufacturers who are distributors under this  
21 Act, and who place their cigarettes in original packages  
22 which are contained inside a sealed transparent wrapper,  
23 shall be required to remit the tax which they are required to  
24 collect under this Act to the Department by remitting the  
25 amount thereof to the Department by the 5th day of each  
26 month, covering cigarettes shipped or otherwise delivered to  
27 points in Illinois to purchasers during the preceding  
28 calendar month, but a distributor need not remit to the  
29 Department the tax so collected by him from purchasers under  
30 this Act to the extent to which such distributor is required  
31 to remit the tax imposed by the Cigarette Tax Act to the  
32 Department with respect to the same cigarettes. All taxes  
33 upon cigarettes under this Act are a direct tax upon the  
34 retail consumer and shall conclusively be presumed to be

1 precollected for the purpose of convenience and facility  
2 only. Distributors who are manufacturers of cigarettes in  
3 original packages which are contained inside a sealed  
4 transparent wrapper, before delivering such cigarettes or  
5 causing such cigarettes to be delivered in this State to  
6 purchasers, shall evidence their obligation to collect and  
7 remit the tax due with respect to such cigarettes by  
8 imprinting language to be prescribed by the Department on  
9 each original package of such cigarettes underneath the  
10 sealed transparent outside wrapper of such original package,  
11 in such place thereon and in such manner as the Department  
12 may prescribe; provided (as stated hereinbefore) that this  
13 requirement does not apply when such distributor is required  
14 or authorized by the Cigarette Tax Act to place the tax  
15 imprint provided for in the last paragraph of Section 3 of  
16 that Act underneath the sealed transparent wrapper of such  
17 original package of cigarettes. Such imprinted language shall  
18 acknowledge the manufacturer's collection and payment of or  
19 liability for the tax imposed by this Act with respect to  
20 such cigarettes.

21 The Department shall adopt the design or designs of the  
22 tax stamps and shall procure the printing of such stamps in  
23 such amounts and denominations as it deems necessary to  
24 provide for the affixation of the proper amount of tax stamps  
25 to each original package of cigarettes.

26 Where tax stamps are required, the Department may  
27 authorize distributors to affix revenue tax stamps by  
28 imprinting tax meter stamps upon original packages of  
29 cigarettes. The Department shall adopt rules and regulations  
30 relating to the imprinting of such tax meter stamps as will  
31 result in payment of the proper taxes as herein imposed. No  
32 distributor may affix revenue tax stamps to original packages  
33 of cigarettes by imprinting meter stamps thereon unless such  
34 distributor has first obtained permission from the Department



1 to employ this method of affixation. The Department shall  
2 regulate the use of tax meters and may, to assure the proper  
3 collection of the taxes imposed by this Act, revoke or  
4 suspend the privilege, theretofore granted by the Department  
5 to any distributor, to imprint tax meter stamps upon original  
6 packages of cigarettes.

7 The tax hereby imposed and not paid pursuant to this  
8 Section shall be paid to the Department directly by any  
9 person using such cigarettes within this State, pursuant to  
10 Section 12 hereof.

11 A distributor may not affix, or cause to be affixed,  
12 stamps to individual packages of cigarettes delivered or  
13 caused to be delivered by the distributor in this State  
14 unless the distributor complies with Section 15 of the  
15 Tobacco Product Manufacturers' Escrow Enforcement Act.

16 (Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

17 (35 ILCS 135/6) (from Ch. 120, par. 453.36)

18 Sec. 6. Revocation, cancellation, or suspension of  
19 license. The Department may, after notice and hearing as  
20 provided for by this Act, revoke, cancel or suspend the  
21 license of any distributor for the violation of any provision  
22 of this Act, or for non-compliance with any provision herein  
23 contained, or for any non-compliance with any lawful rule or  
24 regulation promulgated by the Department under Section 21 of  
25 this Act, or because the licensee is determined to be  
26 ineligible for a distributor's license for any one or more of  
27 the reasons provided for in Section 4 of this Act. However,  
28 no such license shall be revoked, canceled or suspended,  
29 except after a hearing by the Department with notice to the  
30 distributor, as aforesaid, and affording such distributor a  
31 reasonable opportunity to appear and defend, and any  
32 distributor aggrieved by any decision of the Department with  
33 respect thereto may have the determination of the Department

1 judicially reviewed, as herein provided.

2 The Department may revoke, cancel, or suspend the license  
3 of any distributor for a violation of the Tobacco Product  
4 Manufacturers' Escrow Enforcement Act as provided in Section  
5 20 of that Act.

6 Any distributor aggrieved by any decision of the  
7 Department under this Section may, within 20 days after  
8 notice of the decision, protest and request a hearing. Upon  
9 receiving a request for a hearing, the Department shall give  
10 notice in writing to the distributor requesting the hearing  
11 that contains a statement of the charges preferred against  
12 the distributor and that states the time and place fixed for  
13 the hearing. The Department shall hold the hearing in  
14 conformity with the provisions of this Act and then issue its  
15 final administrative decision in the matter to the  
16 distributor. In the absence of a protest and request for a  
17 hearing within 20 days, the Department's decision shall  
18 become final without any further determination being made or  
19 notice given.

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

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

31 (Source: P.A. 91-901, eff. 1-1-01.)

32 Section 999. Effective date. This Act takes effect upon  
33 becoming law.