

1 tax as provided for in Section 3 of the Cigarette Use Tax
2 Act, as appropriate.

3 "Tobacco product manufacturer" has the same meaning as
4 that term is defined in Section 10 of the Tobacco Product
5 Manufacturers' Escrow Act.

6 "Tobacco products" means that term as defined in Section
7 10-5 of the Tobacco Products Tax Act of 1995.

8 Section 15. Distributor's determination of tobacco
9 product manufacturer compliance.

10 (a) A distributor of cigarettes under the Cigarette Tax
11 Act or the Cigarette Use Tax Act, as appropriate, may not
12 affix or cause to be affixed stamps or imprints to individual
13 packages of cigarettes delivered or caused to be delivered by
14 the distributor in this State if the tobacco product
15 manufacturer of those cigarettes has:

16 (1) failed to become a participating manufacturer,
17 as defined in subdivision (a)(1) of Section 15 of the
18 Tobacco Product Manufacturers' Escrow Act; or

19 (2) failed to create a qualified escrow fund for
20 any cigarettes manufactured by the tobacco product
21 manufacturer and sold in this State or otherwise failed
22 to bring itself into compliance with subdivision (a)(2)
23 of Section 15 of the Tobacco Product Manufacturers'
24 Escrow Act.

25 (b) The Department of Revenue may revoke, suspend, or
26 cancel the license of a distributor of tobacco products under
27 the Tobacco Products Tax Act of 1995 that are delivered or
28 caused to be delivered by the distributor in this State if
29 the tobacco product manufacturer of those tobacco products
30 has:

31 (1) failed to become a participating manufacturer,
32 as defined in subdivision (a)(1) of Section 15 of the
33 Tobacco Product Manufacturers' Escrow Act; or

1 (2) failed to create a qualified escrow fund for
2 any tobacco products manufactured by the tobacco product
3 manufacturer and sold in this State or otherwise failed
4 to bring itself into compliance with subdivision (a)(2)
5 of Section 15 of the Tobacco Product Manufacturers'
6 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, Section 6 of the Cigarette Use Tax
10 Act, or Section 10-25 of the Tobacco Products Tax Act of
11 1995, as appropriate.

12 Section 25. Rules. The Illinois Attorney General, in
13 consultation with the Illinois Department of Revenue, shall
14 adopt rules as necessary to effectuate compliance with this
15 Act.

16 Section 905. The Cigarette Tax Act is amended by
17 changing Sections 3 and 6 as follows:

18 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

19 Sec. 3. Affixing tax stamp; remitting tax to the
20 Department. Payment of the taxes imposed by Section 2 of
21 this Act shall (except as hereinafter provided) be evidenced
22 by revenue tax stamps affixed to each original package of
23 cigarettes. Each distributor of cigarettes, before delivering
24 or causing to be delivered any original package of cigarettes
25 in this State to a purchaser, shall firmly affix a proper
26 stamp or stamps to each such package, or (in case of
27 manufacturers of cigarettes in original packages which are
28 contained inside a sealed transparent wrapper) shall imprint
29 the required language on the original package of cigarettes
30 beneath such outside wrapper, as hereinafter provided.

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

17 The Department, or any person authorized by the
18 Department, shall sell such stamps only to persons holding
19 valid licenses as distributors under this Act. The Department
20 may refuse to sell stamps to any person who does not comply
21 with the provisions of this Act.

22 Prior to December 1, 1985, the Department shall allow a
23 distributor 21 days in which to make final payment of the
24 amount to be paid for such stamps, by allowing the
25 distributor to make payment for the stamps at the time of
26 purchasing them with a draft which shall be in such form as
27 the Department prescribes, and which shall be payable within
28 21 days thereafter: 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 80% of such distributor's
33 average monthly tax liability to the Department under this
34 Act during the preceding calendar year or \$500,000, whichever

1 is less. The Bond shall be joint and several and shall be in
2 the form of a surety company bond in such form as the
3 Department prescribes, or it may be in the form of a bank
4 certificate of deposit or bank letter of credit. The bond
5 shall be conditioned upon the distributor's payment of amount
6 of any 21-day draft which the Department accepts from that
7 distributor for the delivery of stamps to that distributor
8 under this Act. The distributor's failure to pay any such
9 draft, when due, shall also make such distributor
10 automatically liable to the Department for a penalty equal to
11 25% of the amount of such draft.

12 On and after December 1, 1985, the Department shall allow
13 a distributor 30 days in which to make final payment of the
14 amount to be paid for such stamps, by allowing the
15 distributor to make payment for the stamps at the time of
16 purchasing them with a draft which shall be in such form as
17 the Department prescribes, and which shall be payable within
18 30 days thereafter, and beginning on January 1, 2003 and
19 thereafter, the draft shall be payable by means of electronic
20 funds transfer: Provided that such distributor has filed
21 with the Department, and has received the Department's
22 approval of, a bond, which is in addition to the bond
23 required under Section 4 of this Act, payable to the
24 Department in an amount equal to 150% of such distributor's
25 average monthly tax liability to the Department under this
26 Act during the preceding calendar year or \$750,000, whichever
27 is less, except that as to bonds filed on or after January 1,
28 1987, such additional bond shall be in an amount equal to
29 100% of such distributor's average monthly tax liability
30 under this Act during the preceding calendar year or
31 \$750,000, whichever is less. The bond shall be joint and
32 several and shall be in the form of a surety company bond in
33 such form as the Department prescribes, or it may be in the
34 form of a bank certificate of deposit or bank letter of

1 credit. The bond shall be conditioned upon the distributor's
2 payment of the amount of any 30-day draft which the
3 Department accepts from that distributor for the delivery of
4 stamps to that distributor under this Act. The distributor's
5 failure to pay any such draft, when due, shall also make such
6 distributor automatically liable to the Department for a
7 penalty equal to 25% of the amount of such draft.

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

1 Any person aggrieved by any decision of the Department
2 under this Section may, within the time allowed by law,
3 protest and request a hearing, whereupon the Department shall
4 give notice and shall hold a hearing in conformity with the
5 provisions of this Act and then issue its final
6 administrative decision in the matter to such person. In the
7 absence of such a protest filed within the time allowed by
8 law, the Department's decision shall become final without any
9 further determination being made or notice given.

10 The Department shall discharge any surety and shall
11 release and return any bond or security deposited, assigned,
12 pledged, or otherwise provided to it by a taxpayer under this
13 Section within 30 days after:

14 (1) Such taxpayer becomes a prior continuous compliance
15 taxpayer; or

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

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

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

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

30 A distributor shall not affix, or cause to be affixed,
31 any stamp or imprint to a package of cigarettes, as provided
32 for in this Section, if the tobacco product manufacturer, as
33 defined in Section 10 of the Tobacco Product Manufacturers'
34 Escrow Act, that made or sold the cigarettes has failed to

1 become a participating manufacturer, as defined in
2 subdivision (a)(1) of Section 15 of the Tobacco Product
3 Manufacturers' Escrow Act, or has failed to create a
4 qualified escrow fund for any cigarettes manufactured by the
5 tobacco product manufacturer and sold in this State or
6 otherwise failed to bring itself into compliance with
7 subdivision (a)(2) of Section 15 of the Tobacco Product
8 Manufacturers' Escrow 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 910. 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 shall not affix, or cause to be affixed,
12 any stamp or imprint to a package of cigarettes, as provided
13 for in this Section, if the tobacco product manufacturer, as
14 defined in Section 10 of the Tobacco Product Manufacturers'
15 Escrow Act, that made or sold the cigarettes has failed to
16 become a participating manufacturer, as defined in
17 subdivision (a)(1) of Section 15 of the Tobacco Product
18 Manufacturers' Escrow Act, or has failed to create a
19 qualified escrow fund for any cigarettes manufactured by the
20 tobacco product manufacturer and sold in this State or
21 otherwise failed to bring itself into compliance with
22 subdivision (a)(2) of Section 15 of the Tobacco Product
23 Manufacturers' Escrow Act.

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

25 (35 ILCS 135/6) (from Ch. 120, par. 453.36)

26 Sec. 6. Revocation, cancellation, or suspension of
27 license. The Department may, after notice and hearing as
28 provided for by this Act, revoke, cancel or suspend the
29 license of any distributor for the violation of any provision
30 of this Act, or for non-compliance with any provision herein
31 contained, or for any non-compliance with any lawful rule or
32 regulation promulgated by the Department under Section 21 of
33 this Act, or because the licensee is determined to be

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

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

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

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

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

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

6 Section 915. The Tobacco Products Tax Act of 1995 is
7 amended by changing Sections 10-20 and 10-25 as follows:

8 (35 ILCS 143/10-20)

9 Sec. 10-20. Licenses. It shall be unlawful for any
10 person to engage in business as a distributor of tobacco
11 products within the meaning of this Act without first having
12 obtained a license to do so from the Department. Application
13 for that license shall be made to the Department in a form
14 prescribed and furnished by the Department. Each applicant
15 for a license shall furnish to the Department on a form,
16 signed and verified by the applicant, the following
17 information:

18 (1) The name of the applicant.

19 (2) The address of the location at which the
20 applicant proposes to engage in business as a distributor
21 of tobacco products.

22 (3) Other information the Department may reasonably
23 require.

24 Except as otherwise provided in this Section, every
25 applicant who is required to procure a distributor's license
26 shall file with his or her application a joint and several
27 bond. The bond shall be executed to the Department of
28 Revenue, with good and sufficient surety or sureties residing
29 or licensed to do business within the State of Illinois,
30 conditioned upon the true and faithful compliance by the
31 licensee with all of the provisions of this Act. The
32 Department shall fix the amount of the bond for each

1 applicant, taking into consideration the amount of money
2 expected to become due from the applicant under this Act.
3 The amount of bond required by the Department shall be an
4 amount that, in its opinion, will protect the State of
5 Illinois against failure to pay the amount that may become
6 due from the applicant under this Act, but the amount of the
7 security required by the Department shall not exceed 3 times
8 the amount of the applicant's average monthly tax liability,
9 or \$50,000, whichever amount is lower. The bond, a reissue,
10 or a substitute shall be kept in full force and effect during
11 the entire period covered by the license. A separate
12 application for license shall be made, and bond filed, for
13 each place of business at which a person who is required to
14 procure a distributor's license proposes to engage in
15 business as a distributor under this Act.

16 The Department, upon receipt of an application and bond
17 in proper form, shall issue to the applicant a license, in a
18 form prescribed by the Department, which shall permit the
19 applicant to whom it is issued to engage in business as a
20 distributor at the place shown on his or her application.
21 The license shall be issued by the Department without charge
22 or cost to the applicant. No license issued under this Act
23 is transferable or assignable. The license shall be
24 conspicuously displayed in the place of business conducted by
25 the licensee under the license.

26 The bonding requirement in this Section does not apply to
27 an applicant for a distributor's license who is already
28 bonded under the Cigarette Tax Act or the Cigarette Use Tax
29 Act. Licenses issued by the Department under this Act shall
30 be valid for a period not to exceed one year after issuance
31 unless sooner revoked, canceled, or suspended as provided in
32 this Act.

33 No license shall be issued to any person who is in
34 default to the State of Illinois for moneys due under this

1 Act or any other tax Act administered by the Department.

2 The Department may, in its discretion, upon application,
3 authorize the payment of the tax imposed under Section 10-10
4 by any distributor or manufacturer not otherwise subject to
5 the tax imposed under this Act who, to the satisfaction of
6 the Department, furnishes adequate security to ensure payment
7 of the tax. The distributor or manufacturer shall be issued,
8 without charge, a license to remit the tax. When so
9 authorized, it shall be the duty of the distributor or
10 manufacturer to remit the tax imposed upon the wholesale
11 price of tobacco products sold or otherwise disposed of to
12 retailers or consumers located in this State, in the same
13 manner and subject to the same requirements as any other
14 distributor or manufacturer licensed under this Act.

15 The Department may revoke, suspend, or cancel the license
16 of a distributor of tobacco products under this Act if the
17 tobacco product manufacturer, as defined in Section 10 of the
18 Tobacco Product Manufacturers' Escrow Act, that made or sold
19 the tobacco products has failed to become a participating
20 manufacturer, as defined in subdivision (a)(1) of Section 15
21 of the Tobacco Product Manufacturers' Escrow Act, or has
22 failed to create a qualified escrow fund for any tobacco
23 products manufactured by the tobacco product manufacturer and
24 sold in this State or otherwise failed to bring itself into
25 compliance with subdivision (a)(2) of Section 15 of the
26 Tobacco Product Manufacturers' Escrow Act.

27 Any person aggrieved by any decision of the Department
28 under this Section may, within 20 days after notice of that
29 decision, protest and request a hearing, whereupon the
30 Department must give notice to that person of the time and
31 place fixed for the hearing and must hold a hearing in
32 conformity with the provisions of this Act and then issue its
33 final administrative decision in the matter to that person.
34 In the absence of such a protest within 20 days, the

1 Department's decision becomes final without any further
2 determination being made or notice given.

3 (Source: P.A. 92-231, eff. 8-2-01.)

4 (35 ILCS 143/10-25)

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

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

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

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

27 Section 999. Effective date. This Act takes effect upon
28 becoming law."