

1 AN ACT concerning government.

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

4 Section 5. The Alcoholism and Other Drug Abuse and  
5 Dependency Act is amended by adding Section 55-35 as follows:

6 (20 ILCS 301/55-35 new)

7 Sec. 55-35. Tobacco enforcement.

8 (a) The Department of Human Services may contract with the  
9 Food and Drug Administration of the U.S. Department of Health  
10 and Human Services to conduct unannounced investigations of  
11 Illinois tobacco vendors to determine compliance with federal  
12 laws relating to the illegal sale of cigarettes and smokeless  
13 tobacco products to persons under the age of 18.

14 (b) Grant funds received from the Food and Drug  
15 Administration of the U.S. Department of Health and Human  
16 Services for conducting unannounced investigations of Illinois  
17 tobacco vendors shall be deposited into the Tobacco Settlement  
18 Recovery Fund starting July 1, 2018.

19 Section 10. The Liquor Control Act of 1934 is amended by  
20 changing Sections 3-12 and 5-6 as follows:

21 (235 ILCS 5/3-12)

1           Sec. 3-12. Powers and duties of State Commission.

2           (a) The State commission shall have the following powers,  
3 functions, and duties:

4           (1) To receive applications and to issue licenses to  
5 manufacturers, foreign importers, importing distributors,  
6 distributors, non-resident dealers, on premise consumption  
7 retailers, off premise sale retailers, special event  
8 retailer licensees, special use permit licenses, auction  
9 liquor licenses, brew pubs, caterer retailers,  
10 non-beverage users, railroads, including owners and  
11 lessees of sleeping, dining and cafe cars, airplanes,  
12 boats, brokers, and wine maker's premises licensees in  
13 accordance with the provisions of this Act, and to suspend  
14 or revoke such licenses upon the State commission's  
15 determination, upon notice after hearing, that a licensee  
16 has violated any provision of this Act or any rule or  
17 regulation issued pursuant thereto and in effect for 30  
18 days prior to such violation. Except in the case of an  
19 action taken pursuant to a violation of Section 6-3, 6-5,  
20 or 6-9, any action by the State Commission to suspend or  
21 revoke a licensee's license may be limited to the license  
22 for the specific premises where the violation occurred. An  
23 action for a violation of this Act shall be commenced by  
24 the State Commission within 2 years after the date the  
25 State Commission becomes aware of the violation.

26           In lieu of suspending or revoking a license, the

1 commission may impose a fine, upon the State commission's  
2 determination and notice after hearing, that a licensee has  
3 violated any provision of this Act or any rule or  
4 regulation issued pursuant thereto and in effect for 30  
5 days prior to such violation.

6 For the purpose of this paragraph (1), when determining  
7 multiple violations for the sale of alcohol to a person  
8 under the age of 21, a second or subsequent violation for  
9 the sale of alcohol to a person under the age of 21 shall  
10 only be considered if it was committed within 5 years after  
11 the date when a prior violation for the sale of alcohol to  
12 a person under the age of 21 was committed.

13 The fine imposed under this paragraph may not exceed  
14 \$500 for each violation. Each day that the activity, which  
15 gave rise to the original fine, continues is a separate  
16 violation. The maximum fine that may be levied against any  
17 licensee, for the period of the license, shall not exceed  
18 \$20,000. The maximum penalty that may be imposed on a  
19 licensee for selling a bottle of alcoholic liquor with a  
20 foreign object in it or serving from a bottle of alcoholic  
21 liquor with a foreign object in it shall be the destruction  
22 of that bottle of alcoholic liquor for the first 10 bottles  
23 so sold or served from by the licensee. For the eleventh  
24 bottle of alcoholic liquor and for each third bottle  
25 thereafter sold or served from by the licensee with a  
26 foreign object in it, the maximum penalty that may be

1 imposed on the licensee is the destruction of the bottle of  
2 alcoholic liquor and a fine of up to \$50.

3 Any notice issued by the State Commission to a licensee  
4 for a violation of this Act or any notice with respect to  
5 settlement or offer in compromise shall include the field  
6 report, photographs, and any other supporting  
7 documentation necessary to reasonably inform the licensee  
8 of the nature and extent of the violation or the conduct  
9 alleged to have occurred.

10 (2) To adopt such rules and regulations consistent with  
11 the provisions of this Act which shall be necessary to  
12 carry on its functions and duties to the end that the  
13 health, safety and welfare of the People of the State of  
14 Illinois shall be protected and temperance in the  
15 consumption of alcoholic liquors shall be fostered and  
16 promoted and to distribute copies of such rules and  
17 regulations to all licensees affected thereby.

18 (3) To call upon other administrative departments of  
19 the State, county and municipal governments, county and  
20 city police departments and upon prosecuting officers for  
21 such information and assistance as it deems necessary in  
22 the performance of its duties.

23 (4) To recommend to local commissioners rules and  
24 regulations, not inconsistent with the law, for the  
25 distribution and sale of alcoholic liquors throughout the  
26 State.

1           (5) To inspect, or cause to be inspected, any premises  
2           in this State where alcoholic liquors are manufactured,  
3           distributed, warehoused, or sold. Nothing in this Act  
4           authorizes an agent of the Commission to inspect private  
5           areas within the premises without reasonable suspicion or a  
6           warrant during an inspection. "Private areas" include, but  
7           are not limited to, safes, personal property, and closed  
8           desks.

9           (5.1) Upon receipt of a complaint or upon having  
10          knowledge that any person is engaged in business as a  
11          manufacturer, importing distributor, distributor, or  
12          retailer without a license or valid license, to notify the  
13          local liquor authority, file a complaint with the State's  
14          Attorney's Office of the county where the incident  
15          occurred, or initiate an investigation with the  
16          appropriate law enforcement officials.

17          (5.2) To issue a cease and desist notice to persons  
18          shipping alcoholic liquor into this State from a point  
19          outside of this State if the shipment is in violation of  
20          this Act.

21          (5.3) To receive complaints from licensees, local  
22          officials, law enforcement agencies, organizations, and  
23          persons stating that any licensee has been or is violating  
24          any provision of this Act or the rules and regulations  
25          issued pursuant to this Act. Such complaints shall be in  
26          writing, signed and sworn to by the person making the

1 complaint, and shall state with specificity the facts in  
2 relation to the alleged violation. If the Commission has  
3 reasonable grounds to believe that the complaint  
4 substantially alleges a violation of this Act or rules and  
5 regulations adopted pursuant to this Act, it shall conduct  
6 an investigation. If, after conducting an investigation,  
7 the Commission is satisfied that the alleged violation did  
8 occur, it shall proceed with disciplinary action against  
9 the licensee as provided in this Act.

10 (6) To hear and determine appeals from orders of a  
11 local commission in accordance with the provisions of this  
12 Act, as hereinafter set forth. Hearings under this  
13 subsection shall be held in Springfield or Chicago, at  
14 whichever location is the more convenient for the majority  
15 of persons who are parties to the hearing.

16 (7) The commission shall establish uniform systems of  
17 accounts to be kept by all retail licensees having more  
18 than 4 employees, and for this purpose the commission may  
19 classify all retail licensees having more than 4 employees  
20 and establish a uniform system of accounts for each class  
21 and prescribe the manner in which such accounts shall be  
22 kept. The commission may also prescribe the forms of  
23 accounts to be kept by all retail licensees having more  
24 than 4 employees, including but not limited to accounts of  
25 earnings and expenses and any distribution, payment, or  
26 other distribution of earnings or assets, and any other

1 forms, records and memoranda which in the judgment of the  
2 commission may be necessary or appropriate to carry out any  
3 of the provisions of this Act, including but not limited to  
4 such forms, records and memoranda as will readily and  
5 accurately disclose at all times the beneficial ownership  
6 of such retail licensed business. The accounts, forms,  
7 records and memoranda shall be available at all reasonable  
8 times for inspection by authorized representatives of the  
9 State commission or by any local liquor control  
10 commissioner or his or her authorized representative. The  
11 commission, may, from time to time, alter, amend or repeal,  
12 in whole or in part, any uniform system of accounts, or the  
13 form and manner of keeping accounts.

14 (8) In the conduct of any hearing authorized to be held  
15 by the commission, to appoint, at the commission's  
16 discretion, hearing officers to conduct hearings involving  
17 complex issues or issues that will require a protracted  
18 period of time to resolve, to examine, or cause to be  
19 examined, under oath, any licensee, and to examine or cause  
20 to be examined the books and records of such licensee; to  
21 hear testimony and take proof material for its information  
22 in the discharge of its duties hereunder; to administer or  
23 cause to be administered oaths; for any such purpose to  
24 issue subpoena or subpoenas to require the attendance of  
25 witnesses and the production of books, which shall be  
26 effective in any part of this State, and to adopt rules to

1           implement its powers under this paragraph (8).

2           Any Circuit Court may by order duly entered, require  
3           the attendance of witnesses and the production of relevant  
4           books subpoenaed by the State commission and the court may  
5           compel obedience to its order by proceedings for contempt.

6           (9) To investigate the administration of laws in  
7           relation to alcoholic liquors in this and other states and  
8           any foreign countries, and to recommend from time to time  
9           to the Governor and through him or her to the legislature  
10          of this State, such amendments to this Act, if any, as it  
11          may think desirable and as will serve to further the  
12          general broad purposes contained in Section 1-2 hereof.

13          (10) To adopt such rules and regulations consistent  
14          with the provisions of this Act which shall be necessary  
15          for the control, sale or disposition of alcoholic liquor  
16          damaged as a result of an accident, wreck, flood, fire or  
17          other similar occurrence.

18          (11) To develop industry educational programs related  
19          to responsible serving and selling, particularly in the  
20          areas of overserving consumers and illegal underage  
21          purchasing and consumption of alcoholic beverages.

22          (11.1) To license persons providing education and  
23          training to alcohol beverage sellers and servers for  
24          mandatory and non-mandatory training under the Beverage  
25          Alcohol Sellers and Servers Education and Training  
26          (BASSET) programs and to develop and administer a public



1 awareness program in Illinois to reduce or eliminate the  
2 illegal purchase and consumption of alcoholic beverage  
3 products by persons under the age of 21. Application for a  
4 license shall be made on forms provided by the State  
5 Commission.

6 (12) To develop and maintain a repository of license  
7 and regulatory information.

8 (13) (Blank). ~~On or before January 15, 1994, the~~  
9 ~~Commission shall issue a written report to the Governor and~~  
10 ~~General Assembly that is to be based on a comprehensive~~  
11 ~~study of the impact on and implications for the State of~~  
12 ~~Illinois of Section 1926 of the federal ADAMHA~~  
13 ~~Reorganization Act of 1992 (Public Law 102-321). This study~~  
14 ~~shall address the extent to which Illinois currently~~  
15 ~~complies with the provisions of P.L. 102-321 and the rules~~  
16 ~~promulgated pursuant thereto.~~

17 ~~As part of its report, the Commission shall provide the~~  
18 ~~following essential information:~~

19 ~~(i) the number of retail distributors of tobacco~~  
20 ~~products, by type and geographic area, in the State;~~

21 ~~(ii) the number of reported citations and~~  
22 ~~successful convictions, categorized by type and~~  
23 ~~location of retail distributor, for violation of the~~  
24 ~~Prevention of Tobacco Use by Minors and Sale and~~  
25 ~~Distribution of Tobacco Products Act and the Smokeless~~  
26 ~~Tobacco Limitation Act;~~

1           ~~(iii) the extent and nature of organized~~  
2           ~~educational and governmental activities that are~~  
3           ~~intended to promote, encourage or otherwise secure~~  
4           ~~compliance with any Illinois laws that prohibit the~~  
5           ~~sale or distribution of tobacco products to minors; and~~

6           ~~(iv) the level of access and availability of~~  
7           ~~tobacco products to individuals under the age of 18.~~

8           ~~To obtain the data necessary to comply with the~~  
9           ~~provisions of P.L. 102 321 and the requirements of this~~  
10           ~~report, the Commission shall conduct random, unannounced~~  
11           ~~inspections of a geographically and scientifically~~  
12           ~~representative sample of the State's retail tobacco~~  
13           ~~distributors.~~

14           ~~The Commission shall consult with the Department of~~  
15           ~~Public Health, the Department of Human Services, the~~  
16           ~~Illinois State Police and any other executive branch~~  
17           ~~agency, and private organizations that may have~~  
18           ~~information relevant to this report.~~

19           ~~The Commission may contract with the Food and Drug~~  
20           ~~Administration of the U.S. Department of Health and Human~~  
21           ~~Services to conduct unannounced investigations of Illinois~~  
22           ~~tobacco vendors to determine compliance with federal laws~~  
23           ~~relating to the illegal sale of cigarettes and smokeless~~  
24           ~~tobacco products to persons under the age of 18.~~

25           (14) On or before April 30, 2008 and every 2 years  
26           thereafter, the Commission shall present a written report

1 to the Governor and the General Assembly that shall be  
2 based on a study of the impact of Public Act 95-634 on the  
3 business of soliciting, selling, and shipping wine from  
4 inside and outside of this State directly to residents of  
5 this State. As part of its report, the Commission shall  
6 provide all of the following information:

7 (A) The amount of State excise and sales tax  
8 revenues generated.

9 (B) The amount of licensing fees received.

10 (C) The number of cases of wine shipped from inside  
11 and outside of this State directly to residents of this  
12 State.

13 (D) The number of alcohol compliance operations  
14 conducted.

15 (E) The number of winery shipper's licenses  
16 issued.

17 (F) The number of each of the following: reported  
18 violations; cease and desist notices issued by the  
19 Commission; notices of violations issued by the  
20 Commission and to the Department of Revenue; and  
21 notices and complaints of violations to law  
22 enforcement officials, including, without limitation,  
23 the Illinois Attorney General and the U.S. Department  
24 of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

25 (15) As a means to reduce the underage consumption of  
26 alcoholic liquors, the Commission shall conduct alcohol

1 compliance operations to investigate whether businesses  
2 that are soliciting, selling, and shipping wine from inside  
3 or outside of this State directly to residents of this  
4 State are licensed by this State or are selling or  
5 attempting to sell wine to persons under 21 years of age in  
6 violation of this Act.

7 (16) The Commission shall, in addition to notifying any  
8 appropriate law enforcement agency, submit notices of  
9 complaints or violations of Sections 6-29 and 6-29.1 by  
10 persons who do not hold a winery shipper's license under  
11 this Act to the Illinois Attorney General and to the U.S.  
12 Department of Treasury's Alcohol and Tobacco Tax and Trade  
13 Bureau.

14 (17) (A) A person licensed to make wine under the laws  
15 of another state who has a winery shipper's license under  
16 this Act and annually produces less than 25,000 gallons of  
17 wine or a person who has a first-class or second-class wine  
18 manufacturer's license, a first-class or second-class  
19 wine-maker's license, or a limited wine manufacturer's  
20 license under this Act and annually produces less than  
21 25,000 gallons of wine may make application to the  
22 Commission for a self-distribution exemption to allow the  
23 sale of not more than 5,000 gallons of the exemption  
24 holder's wine to retail licensees per year.

25 (B) In the application, which shall be sworn under  
26 penalty of perjury, such person shall state (1) the date it

1 was established; (2) its volume of production and sales for  
2 each year since its establishment; (3) its efforts to  
3 establish distributor relationships; (4) that a  
4 self-distribution exemption is necessary to facilitate the  
5 marketing of its wine; and (5) that it will comply with the  
6 liquor and revenue laws of the United States, this State,  
7 and any other state where it is licensed.

8 (C) The Commission shall approve the application for a  
9 self-distribution exemption if such person: (1) is in  
10 compliance with State revenue and liquor laws; (2) is not a  
11 member of any affiliated group that produces more than  
12 25,000 gallons of wine per annum or produces any other  
13 alcoholic liquor; (3) will not annually produce for sale  
14 more than 25,000 gallons of wine; and (4) will not annually  
15 sell more than 5,000 gallons of its wine to retail  
16 licensees.

17 (D) A self-distribution exemption holder shall  
18 annually certify to the Commission its production of wine  
19 in the previous 12 months and its anticipated production  
20 and sales for the next 12 months. The Commission may fine,  
21 suspend, or revoke a self-distribution exemption after a  
22 hearing if it finds that the exemption holder has made a  
23 material misrepresentation in its application, violated a  
24 revenue or liquor law of Illinois, exceeded production of  
25 25,000 gallons of wine in any calendar year, or become part  
26 of an affiliated group producing more than 25,000 gallons

1 of wine or any other alcoholic liquor.

2 (E) Except in hearings for violations of this Act or  
3 Public Act 95-634 or a bona fide investigation by duly  
4 sworn law enforcement officials, the Commission, or its  
5 agents, the Commission shall maintain the production and  
6 sales information of a self-distribution exemption holder  
7 as confidential and shall not release such information to  
8 any person.

9 (F) The Commission shall issue regulations governing  
10 self-distribution exemptions consistent with this Section  
11 and this Act.

12 (G) Nothing in this subsection (17) shall prohibit a  
13 self-distribution exemption holder from entering into or  
14 simultaneously having a distribution agreement with a  
15 licensed Illinois distributor.

16 (H) It is the intent of this subsection (17) to promote  
17 and continue orderly markets. The General Assembly finds  
18 that in order to preserve Illinois' regulatory  
19 distribution system it is necessary to create an exception  
20 for smaller makers of wine as their wines are frequently  
21 adjusted in varietals, mixes, vintages, and taste to find  
22 and create market niches sometimes too small for  
23 distributor or importing distributor business strategies.  
24 Limited self-distribution rights will afford and allow  
25 smaller makers of wine access to the marketplace in order  
26 to develop a customer base without impairing the integrity

1 of the 3-tier system.

2 (18) (A) A class 1 brewer licensee, who must also be  
3 either a licensed brewer or licensed non-resident dealer  
4 and annually manufacture less than 930,000 gallons of beer,  
5 may make application to the State Commission for a  
6 self-distribution exemption to allow the sale of not more  
7 than 232,500 gallons of the exemption holder's beer to  
8 retail licensees per year.

9 (B) In the application, which shall be sworn under  
10 penalty of perjury, the class 1 brewer licensee shall state  
11 (1) the date it was established; (2) its volume of beer  
12 manufactured and sold for each year since its  
13 establishment; (3) its efforts to establish distributor  
14 relationships; (4) that a self-distribution exemption is  
15 necessary to facilitate the marketing of its beer; and (5)  
16 that it will comply with the alcoholic beverage and revenue  
17 laws of the United States, this State, and any other state  
18 where it is licensed.

19 (C) Any application submitted shall be posted on the  
20 State Commission's website at least 45 days prior to action  
21 by the State Commission. The State Commission shall approve  
22 the application for a self-distribution exemption if the  
23 class 1 brewer licensee: (1) is in compliance with the  
24 State, revenue, and alcoholic beverage laws; (2) is not a  
25 member of any affiliated group that manufactures more than  
26 930,000 gallons of beer per annum or produces any other

1 alcoholic beverages; (3) shall not annually manufacture  
2 for sale more than 930,000 gallons of beer; (4) shall not  
3 annually sell more than 232,500 gallons of its beer to  
4 retail licensees; and (5) has relinquished any brew pub  
5 license held by the licensee, including any ownership  
6 interest it held in the licensed brew pub.

7 (D) A self-distribution exemption holder shall  
8 annually certify to the State Commission its manufacture of  
9 beer during the previous 12 months and its anticipated  
10 manufacture and sales of beer for the next 12 months. The  
11 State Commission may fine, suspend, or revoke a  
12 self-distribution exemption after a hearing if it finds  
13 that the exemption holder has made a material  
14 misrepresentation in its application, violated a revenue  
15 or alcoholic beverage law of Illinois, exceeded the  
16 manufacture of 930,000 gallons of beer in any calendar year  
17 or became part of an affiliated group manufacturing more  
18 than 930,000 gallons of beer or any other alcoholic  
19 beverage.

20 (E) The State Commission shall issue rules and  
21 regulations governing self-distribution exemptions  
22 consistent with this Act.

23 (F) Nothing in this paragraph (18) shall prohibit a  
24 self-distribution exemption holder from entering into or  
25 simultaneously having a distribution agreement with a  
26 licensed Illinois importing distributor or a distributor.



1       If a self-distribution exemption holder enters into a  
2       distribution agreement and has assigned distribution  
3       rights to an importing distributor or distributor, then the  
4       self-distribution exemption holder's distribution rights  
5       in the assigned territories shall cease in a reasonable  
6       time not to exceed 60 days.

7           (G) It is the intent of this paragraph (18) to promote  
8       and continue orderly markets. The General Assembly finds  
9       that in order to preserve Illinois' regulatory  
10      distribution system, it is necessary to create an exception  
11      for smaller manufacturers in order to afford and allow such  
12      smaller manufacturers of beer access to the marketplace in  
13      order to develop a customer base without impairing the  
14      integrity of the 3-tier system.

15      (b) On or before April 30, 1999, the Commission shall  
16      present a written report to the Governor and the General  
17      Assembly that shall be based on a study of the impact of Public  
18      Act 90-739 on the business of soliciting, selling, and shipping  
19      alcoholic liquor from outside of this State directly to  
20      residents of this State.

21      As part of its report, the Commission shall provide the  
22      following information:

23           (i) the amount of State excise and sales tax revenues  
24      generated as a result of Public Act 90-739;

25           (ii) the amount of licensing fees received as a result  
26      of Public Act 90-739;

1           (iii) the number of reported violations, the number of  
2           cease and desist notices issued by the Commission, the  
3           number of notices of violations issued to the Department of  
4           Revenue, and the number of notices and complaints of  
5           violations to law enforcement officials.

6           (Source: P.A. 99-78, eff. 7-20-15; 99-448, eff. 8-24-15;  
7           100-134, eff. 8-18-17; 100-201, eff. 8-18-17.)

8           (235 ILCS 5/5-6)

9           Sec. 5-6. FDA grant funds. Grant funds received from the  
10          Food and Drug Administration of the U.S. Department of Health  
11          and Human Services for conducting unannounced investigations  
12          of Illinois tobacco vendors shall be deposited into the Dram  
13          Shop Fund until June 30, 2018.

14          (Source: P.A. 90-9, eff. 7-1-97.)

15          Section 99. Effective date. This Act takes effect upon  
16          becoming law.