

HB2577



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2577

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

235 ILCS 5/8-2

from Ch. 43, par. 159

Amends the Liquor Control Act of 1934. Excludes manufacturers and importing distributors that in the preceding year had less than \$50,000 of tax liability under the Taxation of Liquor Article from a provision requiring manufacturers and importing distributors to file a specified bond with the Department of Revenue. Effective January 1, 2020.

LRB101 06994 RPS 52027 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning liquor.

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

4 Section 5. The Liquor Control Act of 1934 is amended by
5 changing Section 8-2 as follows:

6 (235 ILCS 5/8-2) (from Ch. 43, par. 159)

7 Sec. 8-2. Payments; reports. It is the duty of each
8 manufacturer with respect to alcoholic liquor produced or
9 imported by such manufacturer, or purchased tax-free by such
10 manufacturer from another manufacturer or importing
11 distributor, and of each importing distributor as to alcoholic
12 liquor purchased by such importing distributor from foreign
13 importers or from anyone from any point in the United States
14 outside of this State or purchased tax-free from another
15 manufacturer or importing distributor, to pay the tax imposed
16 by Section 8-1 to the Department of Revenue on or before the
17 15th day of the calendar month following the calendar month in
18 which such alcoholic liquor is sold or used by such
19 manufacturer or by such importing distributor other than in an
20 authorized tax-free manner or to pay that tax electronically as
21 provided in this Section.

22 Each manufacturer and each importing distributor shall
23 make payment under one of the following methods: (1) on or

1 before the 15th day of each calendar month, file in person or
2 by United States first-class mail, postage pre-paid, with the
3 Department of Revenue, on forms prescribed and furnished by the
4 Department, a report in writing in such form as may be required
5 by the Department in order to compute, and assure the accuracy
6 of, the tax due on all taxable sales and uses of alcoholic
7 liquor occurring during the preceding month. Payment of the tax
8 in the amount disclosed by the report shall accompany the
9 report or, (2) on or before the 15th day of each calendar
10 month, electronically file with the Department of Revenue, on
11 forms prescribed and furnished by the Department, an electronic
12 report in such form as may be required by the Department in
13 order to compute, and assure the accuracy of, the tax due on
14 all taxable sales and uses of alcoholic liquor occurring during
15 the preceding month. An electronic payment of the tax in the
16 amount disclosed by the report shall accompany the report. A
17 manufacturer or distributor who files an electronic report and
18 electronically pays the tax imposed pursuant to Section 8-1 to
19 the Department of Revenue on or before the 15th day of the
20 calendar month following the calendar month in which such
21 alcoholic liquor is sold or used by that manufacturer or
22 importing distributor other than in an authorized tax-free
23 manner shall pay to the Department the amount of the tax
24 imposed pursuant to Section 8-1, less a discount which is
25 allowed to reimburse the manufacturer or importing distributor
26 for the expenses incurred in keeping and maintaining records,

1 preparing and filing the electronic returns, remitting the tax,
2 and supplying data to the Department upon request.

3 The discount shall be in an amount as follows:

4 (1) For original returns due on or after January 1,
5 2003 through September 30, 2003, the discount shall be
6 1.75% or \$1,250 per return, whichever is less;

7 (2) For original returns due on or after October 1,
8 2003 through September 30, 2004, the discount shall be 2%
9 or \$3,000 per return, whichever is less; and

10 (3) For original returns due on or after October 1,
11 2004, the discount shall be 2% or \$2,000 per return,
12 whichever is less.

13 The Department may, if it deems it necessary in order to
14 insure the payment of the tax imposed by this Article, require
15 returns to be made more frequently than and covering periods of
16 less than a month. Such return shall contain such further
17 information as the Department may reasonably require.

18 It shall be presumed that all alcoholic liquors acquired or
19 made by any importing distributor or manufacturer have been
20 sold or used by him in this State and are the basis for the tax
21 imposed by this Article unless proven, to the satisfaction of
22 the Department, that such alcoholic liquors are (1) still in
23 the possession of such importing distributor or manufacturer,
24 or (2) prior to the termination of possession have been lost by
25 theft or through unintentional destruction, or (3) that such
26 alcoholic liquors are otherwise exempt from taxation under this

1 Act.

2 If any payment provided for in this Section exceeds the
3 manufacturer's or importing distributor's liabilities under
4 this Act, as shown on an original report, the manufacturer or
5 importing distributor may credit such excess payment against
6 liability subsequently to be remitted to the Department under
7 this Act, in accordance with reasonable rules adopted by the
8 Department. If the Department subsequently determines that all
9 or any part of the credit taken was not actually due to the
10 manufacturer or importing distributor, the manufacturer's or
11 importing distributor's discount shall be reduced by an amount
12 equal to the difference between the discount as applied to the
13 credit taken and that actually due, and the manufacturer or
14 importing distributor shall be liable for penalties and
15 interest on such difference.

16 The Department may require any foreign importer to file
17 monthly information returns, by the 15th day of the month
18 following the month which any such return covers, if the
19 Department determines this to be necessary to the proper
20 performance of the Department's functions and duties under this
21 Act. Such return shall contain such information as the
22 Department may reasonably require.

23 Every manufacturer and importing distributor, except for a
24 manufacturer or importing distributor that in the preceding
25 year had less than \$50,000 of tax liability under this Article,
26 shall also file, with the Department, a bond in an amount not

1 less than \$1,000 and not to exceed \$100,000 on a form to be
2 approved by, and with a surety or sureties satisfactory to, the
3 Department. Such bond shall be conditioned upon the
4 manufacturer or importing distributor paying to the Department
5 all monies becoming due from such manufacturer or importing
6 distributor under this Article. The Department shall fix the
7 penalty of such bond in each case, taking into consideration
8 the amount of alcoholic liquor expected to be sold and used by
9 such manufacturer or importing distributor, and the penalty
10 fixed by the Department shall be sufficient, in the
11 Department's opinion, to protect the State of Illinois against
12 failure to pay any amount due under this Article, but the
13 amount of the penalty fixed by the Department shall not exceed
14 twice the amount of tax liability of a monthly return, nor
15 shall the amount of such penalty be less than \$1,000. The
16 Department shall notify the Commission of the Department's
17 approval or disapproval of any such manufacturer's or importing
18 distributor's bond, or of the termination or cancellation of
19 any such bond, or of the Department's direction to a
20 manufacturer or importing distributor that he must file
21 additional bond in order to comply with this Section. The
22 Commission shall not issue a license to any applicant for a
23 manufacturer's or importing distributor's license unless the
24 Commission has received a notification from the Department
25 showing that such applicant has filed a satisfactory bond with
26 the Department hereunder and that such bond has been approved

1 by the Department. Failure by any licensed manufacturer or
2 importing distributor to keep a satisfactory bond in effect
3 with the Department or to furnish additional bond to the
4 Department, when required hereunder by the Department to do so,
5 shall be grounds for the revocation or suspension of such
6 manufacturer's or importing distributor's license by the
7 Commission. If a manufacturer or importing distributor fails to
8 pay any amount due under this Article, his bond with the
9 Department shall be deemed forfeited, and the Department may
10 institute a suit in its own name on such bond.

11 After notice and opportunity for a hearing the State
12 Commission may revoke or suspend the license of any
13 manufacturer or importing distributor who fails to comply with
14 the provisions of this Section. Notice of such hearing and the
15 time and place thereof shall be in writing and shall contain a
16 statement of the charges against the licensee. Such notice may
17 be given by United States registered or certified mail with
18 return receipt requested, addressed to the person concerned at
19 his last known address and shall be given not less than 7 days
20 prior to the date fixed for the hearing. An order revoking or
21 suspending a license under the provisions of this Section may
22 be reviewed in the manner provided in Section 7-10 of this Act.
23 No new license shall be granted to a person whose license has
24 been revoked for a violation of this Section or, in case of
25 suspension, shall such suspension be terminated until he has
26 paid to the Department all taxes and penalties which he owes

1 the State under the provisions of this Act.

2 Every manufacturer or importing distributor who has, as
3 verified by the Department, continuously complied with the
4 conditions of the bond under this Act for a period of 2 years
5 shall be considered to be a prior continuous compliance
6 taxpayer. In determining the consecutive period of time for
7 qualification as a prior continuous compliance taxpayer, any
8 consecutive period of time of qualifying compliance
9 immediately prior to the effective date of this amendatory Act
10 of 1987 shall be credited to any manufacturer or importing
11 distributor.

12 A manufacturer or importing distributor that is a prior
13 continuous compliance taxpayer under this Section and becomes a
14 successor as the result of an acquisition, merger, or
15 consolidation of a manufacturer or importing distributor shall
16 be deemed to be a prior continuous compliance taxpayer with
17 respect to the acquired, merged, or consolidated entity.

18 Every prior continuous compliance taxpayer shall be exempt
19 from the bond requirements of this Act until the Department has
20 determined the taxpayer to be delinquent in the filing of any
21 return or deficient in the payment of any tax under this Act.
22 Any taxpayer who fails to pay an admitted or established
23 liability under this Act may also be required to post bond or
24 other acceptable security with the Department guaranteeing the
25 payment of such admitted or established liability.

26 The Department shall discharge any surety and shall release

1 and return any bond or security deposit assigned, pledged or
2 otherwise provided to it by a taxpayer under this Section
3 within 30 days after: (1) such taxpayer becomes a prior
4 continuous compliance taxpayer; or (2) such taxpayer has ceased
5 to collect receipts on which he is required to remit tax to the
6 Department, has filed a final tax return, and has paid to the
7 Department an amount sufficient to discharge his remaining tax
8 liability as determined by the Department under this Act.

9 (Source: P.A. 100-1171, eff. 1-4-19.)

10 Section 99. Effective date. This Act takes effect January
11 1, 2020.