



Sen. Denny Jacobs

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1 AMENDMENT TO SENATE BILL 2293

2 AMENDMENT NO. _____. Amend Senate Bill 2293 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Liquor Control Act of 1934 is amended by
5 changing Sections 3-12, 6-2, and 6-16.1 as follows:

6 (235 ILCS 5/3-12) (from Ch. 43, par. 108)

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

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

10 (1) To receive applications and to issue licenses to
11 manufacturers, foreign importers, importing distributors,
12 distributors, non-resident dealers, on premise consumption
13 retailers, off premise sale retailers, special event
14 retailer licensees, special use permit licenses, auction
15 liquor licenses, brew pubs, caterer retailers,
16 non-beverage users, railroads, including owners and
17 lessees of sleeping, dining and cafe cars, airplanes,
18 boats, brokers, and wine maker's premises licensees in
19 accordance with the provisions of this Act, and to suspend
20 or revoke such licenses upon the State commission's
21 determination, upon notice after hearing, that a licensee
22 has violated any provision of this Act or any rule or
23 regulation issued pursuant thereto and in effect for 30
24 days prior to such violation. Except in the case of an

1 action taken pursuant to a violation of Section 6-3, 6-5,
2 or 6-9, any action by the State Commission to suspend or
3 revoke a licensee's license may be limited to the license
4 for the specific premises where the violation occurred.

5 In lieu of suspending or revoking a license, the
6 commission may impose a fine, upon the State commission's
7 determination and notice after hearing, that a licensee has
8 violated any provision of this Act or any rule or
9 regulation issued pursuant thereto and in effect for 30
10 days prior to such violation. The fine imposed under this
11 paragraph may not exceed \$500 for each violation. Each day
12 that the activity, which gave rise to the original fine,
13 continues is a separate violation. The maximum fine that
14 may be levied against any licensee, for the period of the
15 license, shall not exceed \$20,000. The maximum penalty that
16 may be imposed on a licensee for selling a bottle of
17 alcoholic liquor with a foreign object in it or serving
18 from a bottle of alcoholic liquor with a foreign object in
19 it shall be the destruction of that bottle of alcoholic
20 liquor for the first 10 bottles so sold or served from by
21 the licensee. For the eleventh bottle of alcoholic liquor
22 and for each third bottle thereafter sold or served from by
23 the licensee with a foreign object in it, the maximum
24 penalty that may be imposed on the licensee is the
25 destruction of the bottle of alcoholic liquor and a fine of
26 up to \$50.

27 (2) To adopt such rules and regulations consistent with
28 the provisions of this Act which shall be necessary to
29 carry on its functions and duties to the end that the
30 health, safety and welfare of the People of the State of
31 Illinois shall be protected and temperance in the
32 consumption of alcoholic liquors shall be fostered and
33 promoted and to distribute copies of such rules and
34 regulations to all licensees affected thereby.

1 (3) To call upon other administrative departments of
2 the State, county and municipal governments, county and
3 city police departments and upon prosecuting officers for
4 such information and assistance as it deems necessary in
5 the performance of its duties.

6 (4) To recommend to local commissioners rules and
7 regulations, not inconsistent with the law, for the
8 distribution and sale of alcoholic liquors throughout the
9 State.

10 (5) To inspect, or cause to be inspected, any premises
11 in this State where alcoholic liquors are manufactured,
12 distributed, warehoused, or sold.

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

21 (5.2) To issue a cease and desist notice to persons
22 shipping alcoholic liquor into this State from a point
23 outside of this State if the shipment is in violation of
24 this Act.

25 (5.3) To receive complaints from licensees, local
26 officials, law enforcement agencies, organizations, and
27 persons stating that any licensee has been or is violating
28 any provision of this Act or the rules and regulations
29 issued pursuant to this Act. Such complaints shall be in
30 writing, signed and sworn to by the person making the
31 complaint, and shall state with specificity the facts in
32 relation to the alleged violation. If the Commission has
33 reasonable grounds to believe that the complaint
34 substantially alleges a violation of this Act or rules and

1 regulations adopted pursuant to this Act, it shall conduct
2 an investigation. If, after conducting an investigation,
3 the Commission is satisfied that the alleged violation did
4 occur, it shall proceed with disciplinary action against
5 the licensee as provided in this Act.

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

12 (7) The commission shall establish uniform systems of
13 accounts to be kept by all retail licensees having more
14 than 4 employees, and for this purpose the commission may
15 classify all retail licensees having more than 4 employees
16 and establish a uniform system of accounts for each class
17 and prescribe the manner in which such accounts shall be
18 kept. The commission may also prescribe the forms of
19 accounts to be kept by all retail licensees having more
20 than 4 employees, including but not limited to accounts of
21 earnings and expenses and any distribution, payment, or
22 other distribution of earnings or assets, and any other
23 forms, records and memoranda which in the judgment of the
24 commission may be necessary or appropriate to carry out any
25 of the provisions of this Act, including but not limited to
26 such forms, records and memoranda as will readily and
27 accurately disclose at all times the beneficial ownership
28 of such retail licensed business. The accounts, forms,
29 records and memoranda shall be available at all reasonable
30 times for inspection by authorized representatives of the
31 State commission or by any local liquor control
32 commissioner or his or her authorized representative. The
33 commission, may, from time to time, alter, amend or repeal,
34 in whole or in part, any uniform system of accounts, or the

1 form and manner of keeping accounts.

2 (8) In the conduct of any hearing authorized to be held
3 by the commission, to appoint, at the commission's
4 discretion, hearing officers to conduct hearings involving
5 complex issues or issues that will require a protracted
6 period of time to resolve, to examine, or cause to be
7 examined, under oath, any licensee, and to examine or cause
8 to be examined the books and records of such licensee; to
9 hear testimony and take proof material for its information
10 in the discharge of its duties hereunder; to administer or
11 cause to be administered oaths; for any such purpose to
12 issue subpoena or subpoenas to require the attendance of
13 witnesses and the production of books, which shall be
14 effective in any part of this State, and to adopt rules to
15 implement its powers under this paragraph (8).

16 Any Circuit Court may by order duly entered, require
17 the attendance of witnesses and the production of relevant
18 books subpoenaed by the State commission and the court may
19 compel obedience to its order by proceedings for contempt.

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

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

32 (11) To develop industry educational programs related
33 to responsible serving and selling, particularly in the
34 areas of overserving consumers and illegal underage

1 purchasing and consumption of alcoholic beverages.

2 (11.1) To license persons providing education and
3 training to alcohol beverage sellers and servers under the
4 Beverage Alcohol Sellers and Servers Education and
5 Training (BASSET) programs and to develop and administer a
6 public awareness program in Illinois to reduce or eliminate
7 the illegal purchase and consumption of alcoholic beverage
8 products by persons under the age of 21. Application for a
9 license shall be made on forms provided by the State
10 Commission.

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

13 (13) On or before January 15, 1994, the Commission
14 shall issue a written report to the Governor and General
15 Assembly that is to be based on a comprehensive study of
16 the impact on and implications for the State of Illinois of
17 Section 1926 of the Federal ADAMHA Reorganization Act of
18 1992 (Public Law 102-321). This study shall address the
19 extent to which Illinois currently complies with the
20 provisions of P.L. 102-321 and the rules promulgated
21 pursuant thereto.

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

24 (i) the number of retail distributors of tobacco
25 products, by type and geographic area, in the State;

26 (ii) the number of reported citations and
27 successful convictions, categorized by type and
28 location of retail distributor, for violation of the
29 Sale of Tobacco to Minors Act and the Smokeless Tobacco
30 Limitation Act;

31 (iii) the extent and nature of organized
32 educational and governmental activities that are
33 intended to promote, encourage or otherwise secure
34 compliance with any Illinois laws that prohibit the

1 sale or distribution of tobacco products to minors; and
2 (iv) the level of access and availability of
3 tobacco products to individuals under the age of 18.

4 To obtain the data necessary to comply with the provisions
5 of P.L. 102-321 and the requirements of this report, the
6 Commission shall conduct random, unannounced inspections of a
7 geographically and scientifically representative sample of the
8 State's retail tobacco distributors.

9 The Commission shall consult with the Department of Public
10 Health, the Department of Human Services, the Illinois State
11 Police and any other executive branch agency, and private
12 organizations that may have information relevant to this
13 report.

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

20 (b) On or before April 30, 1999, the Commission shall
21 present a written report to the Governor and the General
22 Assembly that shall be based on a study of the impact of this
23 amendatory Act of 1998 on the business of soliciting, selling,
24 and shipping alcoholic liquor from outside of this State
25 directly to residents of this State.

26 As part of its report, the Commission shall provide the
27 following information:

28 (i) the amount of State excise and sales tax revenues
29 generated as a result of this amendatory Act of 1998;

30 (ii) the amount of licensing fees received as a result
31 of this amendatory Act of 1998;

32 (iii) the number of reported violations, the number of
33 cease and desist notices issued by the Commission, the
34 number of notices of violations issued to the Department of

1 Revenue, and the number of notices and complaints of
2 violations to law enforcement officials.

3 (Source: P.A. 91-553, eff. 8-14-99; 91-922, eff. 7-7-00;
4 92-378, eff. 8-16-01; 92-813, eff. 8-21-02.)

5 (235 ILCS 5/6-2) (from Ch. 43, par. 120)

6 Sec. 6-2. Issuance of licenses to certain persons
7 prohibited.

8 (a) Except as otherwise provided in subsection (b) of this
9 Section and in paragraph (1) of subsection (a) of Section 3-12,
10 no license of any kind issued by the State Commission or any
11 local commission shall be issued to:

12 (1) A person who is not a resident of any city, village
13 or county in which the premises covered by the license are
14 located; except in case of railroad or boat licenses.

15 (2) A person who is not of good character and
16 reputation in the community in which he resides.

17 (3) A person who is not a citizen of the United States.

18 (4) A person who has been convicted of a felony under
19 any Federal or State law, unless the Commission determines
20 that such person has been sufficiently rehabilitated to
21 warrant the public trust after considering matters set
22 forth in such person's application and the Commission's
23 investigation. The burden of proof of sufficient
24 rehabilitation shall be on the applicant.

25 (5) A person who has been convicted of being the keeper
26 or is keeping a house of ill fame.

27 (6) A person who has been convicted of pandering or
28 other crime or misdemeanor opposed to decency and morality.

29 (7) A person whose license issued under this Act has
30 been revoked for cause.

31 (8) A person who at the time of application for renewal
32 of any license issued hereunder would not be eligible for
33 such license upon a first application.

1 (9) A copartnership, if any general partnership
2 thereof, or any limited partnership thereof, owning more
3 than 5% of the aggregate limited partner interest in such
4 copartnership would not be eligible to receive a license
5 hereunder for any reason other than residence within the
6 political subdivision, unless residency is required by
7 local ordinance.

8 (10) A corporation, if any officer, manager or director
9 thereof, or any stockholder or stockholders owning in the
10 aggregate more than 5% of the stock of such corporation,
11 would not be eligible to receive a license hereunder for
12 any reason other than citizenship and residence within the
13 political subdivision.

14 (10a) A corporation unless it is incorporated in
15 Illinois, or unless it is a foreign corporation which is
16 qualified under the Business Corporation Act of 1983 to
17 transact business in Illinois.

18 (11) A person whose place of business is conducted by a
19 manager or agent unless the manager or agent possesses the
20 same qualifications required by the licensee.

21 (12) A person who has been convicted of a violation of
22 any Federal or State law concerning the manufacture,
23 possession or sale of alcoholic liquor, subsequent to the
24 passage of this Act or has forfeited his bond to appear in
25 court to answer charges for any such violation.

26 (13) A person who does not beneficially own the
27 premises for which a license is sought, or does not have a
28 lease thereon for the full period for which the license is
29 to be issued.

30 (14) Any law enforcing public official, including
31 members of local liquor control commissions, any mayor,
32 alderman, or member of the city council or commission, any
33 president of the village board of trustees, any member of a
34 village board of trustees, or any president or member of a

1 county board; and no such official shall be interested
2 directly in the manufacture, sale, or distribution of
3 alcoholic liquor, except that a license may be granted to
4 such official in relation to premises that are not located
5 within the territory subject to the jurisdiction of that
6 official if the issuance of such license is approved by the
7 State Liquor Control Commission and except that a license
8 may be granted, in a city or village with a population of
9 50,000 or less, to any alderman, member of a city council,
10 or member of a village board of trustees in relation to
11 premises that are located within the territory subject to
12 the jurisdiction of that official if (i) the sale of
13 alcoholic liquor pursuant to the license is incidental to
14 the selling of food, (ii) the issuance of the license is
15 approved by the State Commission, (iii) the issuance of the
16 license is in accordance with all applicable local
17 ordinances in effect where the premises are located, and
18 (iv) the official granted a license does not vote on
19 alcoholic liquor issues pending before the board or council
20 to which the license holder is elected.

21 (15) A person who is not a beneficial owner of the
22 business to be operated by the licensee.

23 (16) A person who has been convicted of a gambling
24 offense as proscribed by any of subsections (a) (3) through
25 (a) (11) of Section 28-1 of, or as proscribed by Section
26 28-1.1 or 28-3 of, the Criminal Code of 1961, or as
27 proscribed by a statute replaced by any of the aforesaid
28 statutory provisions.

29 (17) A person or entity to whom a federal wagering
30 stamp has been issued by the federal government, unless the
31 person or entity is eligible to be issued a license under
32 the Raffles Act or the Illinois Pull Tabs and Jar Games
33 Act.

34 (18) A person who intends to sell alcoholic liquors for

1 use or consumption on his or her licensed retail premises
2 who does not have liquor liability insurance coverage for
3 that premises in an amount that is at least equal to the
4 maximum liability amounts set out in subsection (a) of
5 Section 6-21.

6 (b) A criminal conviction of a corporation is not grounds
7 for the denial, suspension, or revocation of a license applied
8 for or held by the corporation if the criminal conviction was
9 not the result of a violation of any federal or State law
10 concerning the manufacture, possession or sale of alcoholic
11 liquor, the offense that led to the conviction did not result
12 in any financial gain to the corporation and the corporation
13 has terminated its relationship with each director, officer,
14 employee, or controlling shareholder whose actions directly
15 contributed to the conviction of the corporation. The
16 Commission shall determine if all provisions of this subsection
17 (b) have been met before any action on the corporation's
18 license is initiated.

19 (Source: P.A. 92-378, eff. 8-16-01; 93-266, eff. 1-1-04.)

20 (235 ILCS 5/6-16.1)

21 Sec. 6-16.1. Enforcement actions.

22 (a) A licensee or an officer, associate, member,
23 representative, agent, or employee of a licensee may sell,
24 give, or deliver alcoholic liquor to a person under the age of
25 21 years or authorize the sale, gift, or delivery of alcoholic
26 liquor to a person under the age of 21 years pursuant to a plan
27 or action to investigate, patrol, or otherwise conduct a "sting
28 operation" or enforcement action against a person employed by
29 the licensee or on any licensed premises if the licensee or
30 officer, associate, member, representative, agent, or employee
31 of the licensee provides written notice, at least 14 days
32 before the "sting operation" or enforcement action, unless
33 governing body of the municipality or county having

1 jurisdiction sets a shorter period by ordinance, to the law
2 enforcement agency having jurisdiction, the local liquor
3 control commissioner, or both. Notice provided under this
4 Section shall be valid for a "sting operation" or enforcement
5 action conducted within 60 days of the provision of that
6 notice, unless the governing body of the municipality or county
7 having jurisdiction sets a shorter period by ordinance.

8 (b) A local liquor control commission or unit of local
9 government that conducts alcohol and tobacco compliance
10 operations shall establish a policy and standards for alcohol
11 and tobacco compliance operations to investigate whether a
12 licensee is furnishing (1) alcoholic liquor to persons under 21
13 years of age in violation of this Act or (2) tobacco to persons
14 in violation of the Sale of Tobacco to Minors Act.

15 (c) The Illinois Law Enforcement Training Standards Board
16 shall develop a model policy and guidelines for the operation
17 of alcohol and tobacco compliance checks by local law
18 enforcement officers. The Illinois Law Enforcement Training
19 Standards Board shall also require the supervising officers of
20 such compliance checks to have met a minimum training standard
21 as determined by the Board. The Board shall have the right to
22 waive any training based on current written policies and
23 procedures for alcohol and tobacco compliance check operations
24 and in-service training already administered by the local law
25 enforcement agency, department, or office.

26 (d) The provisions of subsections (b) and (c) do not apply
27 to a home rule unit with more than 2,000,000 inhabitants.

28 (e) A home rule unit, other than a home rule unit with more
29 than 2,000,000 inhabitants, may not regulate enforcement
30 actions in a manner inconsistent with the regulation of
31 enforcement actions under this Section. This subsection (e) is
32 a limitation under subsection (i) of Section 6 of Article VII
33 of the Illinois Constitution on the concurrent exercise by home
34 rule units of powers and functions exercised by the State.

1 (f) A licensee who is the subject of an enforcement action
2 or "sting operation" under this Section and is found, pursuant
3 to the enforcement action, to be in compliance with this Act
4 shall be notified by the enforcement agency action that no
5 violation was found within 30 days after the finding.
6 (Source: P.A. 92-503, eff. 1-1-02.)".