



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4795

Introduced 1/12/2010, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

235 ILCS 5/3-15 new
235 ILCS 5/3-16 new
235 ILCS 5/6-2

from Ch. 43, par. 120

Amends the Liquor Control Act. Supersedes Executive Order No. 2003-9 with respect to (1) the transfer of certain employees and resources from the State Liquor Control Commission to the Department of Revenue, and (2) the appointment of the Secretary and Executive Director of the State Commission by the Governor. Beginning July 1, 2010, moves the affected employees and positions back to the State Commission. Provides that the status and rights of the transferred employees shall remain unchanged by the transfer. Also transfers related resources, property, rules, and unexpended appropriations and balances back to the State Commission. Provides that the Secretary and Executive Director of the State Commission shall again be appointed by the State Commission rather than the Governor; except that the Secretary and Executive Director serving on June 30, 2010 may continue to serve for the remainder of their appointed terms. Includes savings provisions. Provides that the State Commission has the power to appoint investigators. Provides that these investigators have all the powers of peace officers solely for the purpose of enforcing the Act, and may carry firearms if certain conditions are met. Provides that a mayor, a president of a village board of trustees, or a president of a county board may have a direct interest in the manufacture, sale, or distribution of alcoholic liquor, provided that he or she is not involved in law enforcement, abstains from hearings and actions involving alcoholic liquor, and delegates any authority over the manufacture, sale, or distribution of alcoholic liquor to another official in the jurisdiction. Makes other changes. Effective immediately.

LRB096 16345 ASK 31609 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 6-2 and by adding Sections 3-15 and 3-16 as
6 follows:

7 (235 ILCS 5/3-15 new)

8 Sec. 3-15. Executive order provisions superseded.

9 (a) Executive Order No. 2003-9 is superseded by this
10 amendatory Act of the 96th General Assembly to the extent that
11 Executive Order No. 2003-9 (1) transfers certain "clerks, other
12 management and staff support or employees, and other resources
13 necessary for the operation of the Liquor Control Commission"
14 to the Department of Revenue, and (2) provides for the
15 Secretary and Executive Director of the State Commission to be
16 appointed by the Governor.

17 (b) Beginning July 1, 2010, the Secretary and Executive
18 Director of the State Commission shall be appointed by the
19 State Commission rather than the Governor; except that the
20 Secretary and Executive Director of the State Commission
21 serving on June 30, 2010 may continue to serve for the
22 remainder of their appointed terms.

23 (c) Beginning July 1, 2010, the State Commission may again

1 obtain, employ, and administer clerks and other employees in
2 accordance with this Act.

3 On July 1, 2010, all clerk, employee, and management and
4 support staff positions that were transferred from the State
5 Commission to the Department of Revenue under Executive Order
6 No. 2003-9, including the persons serving in those positions on
7 June 30, 2010, are hereby transferred from the Department of
8 Revenue back to the State Commission; except that in the case
9 of an employee who performs both duties relating to the State
10 Commission and other duties, the employee is transferred under
11 this subsection only if a majority of the employee's time on
12 the job is usually spent performing duties relating to the
13 State Commission, or if the Director of Revenue otherwise
14 directs.

15 The status and rights of the employees transferred under
16 this Section, and of the State of Illinois and its agencies,
17 under the Personnel Code and applicable collective bargaining
18 agreements or under any pension, retirement, or annuity plan
19 shall not be affected by that transfer.

20 (d) On July 1, 2010, any remaining "other resources
21 necessary for the operation of the Liquor Control Commission"
22 that were transferred to the Department of Revenue for the
23 operation of the State Commission pursuant to Executive Order
24 No. 2003-9 shall be transferred by the Department of Revenue
25 back to the State Commission.

26 (e) All books, records, papers, documents, property (real

1 and personal), contracts, causes of action, and pending
2 business pertaining to the persons, positions, or resources
3 transferred under this Section from the Department of Revenue
4 to the State Commission, including, but not limited to,
5 material in electronic or magnetic format and necessary
6 computer hardware and software, shall be transferred to the
7 State Commission.

8 (f) All unexpended and unobligated appropriations and
9 balances and other funds available on or after July 1, 2010 for
10 use by the Department of Revenue for the employees or positions
11 (or relating to the property) transferred under this Section
12 shall be transferred for use by the State Commission. An
13 unexpended appropriation so transferred shall be expended only
14 for the purpose for which the appropriation was originally
15 made.

16 (g) On July 1, 2010, any rules of the State Commission that
17 became rules of the Department of Revenue under Executive Order
18 No. 2003-9 shall again become the rules of the State Commission
19 with respect to the transferred employees. This amendatory Act
20 does not affect the legality of any such rules in the Illinois
21 Administrative Code.

22 (h) This Section does not affect any act done, ratified, or
23 canceled or any right occurring or established or any action or
24 proceeding had or commenced in an administrative, civil, or
25 criminal cause by the Department of Revenue before this Section
26 takes effect that relates to a person, position, resource, or

1 property transferred under this Section. Any such action or
2 proceeding may be prosecuted and continued by the State
3 Commission.

4 (i) The other provisions of this Section do not apply to or
5 affect any employee, position, power, or duty of the Department
6 of Revenue that was unaffected by Executive Order No. 2003-9,
7 including without limitation those relating to the collection
8 of taxes.

9 (235 ILCS 5/3-16 new)

10 Sec. 3-16. Investigators.

11 (a) The State Commission has the power to appoint
12 investigators to conduct all investigations, searches,
13 seizures, arrests, and other duties imposed under the
14 provisions of any law administered by the State Commission.
15 Except as provided in subsection (c), these investigators have
16 and may exercise all the powers of peace officers solely for
17 the purpose of enforcing this Act.

18 (b) The State Commission must authorize to each
19 investigator employed under this Section and to any other
20 employee of the State Commission exercising the powers of a
21 peace officer a distinct badge that, on its face, (i) clearly
22 states that the badge is authorized by the State Commission and
23 (ii) contains a unique identifying number. No other badge shall
24 be authorized by the State Commission.

25 (c) Notwithstanding any police powers granted to a State

1 Commission investigator, an investigator may carry a firearm in
2 the performance of his or her duties as an investigator only if
3 all of the following conditions are met:

4 (1) the investigator possesses a valid Firearm Owner's
5 Identification Card issued under the Firearm Owners
6 Identification Card Act;

7 (2) the investigator maintains firearms proficiency on
8 an annual basis as determined by the State Commission; and

9 (3) the investigator has either successfully completed
10 the 40-hour firearms training course of the Illinois Law
11 Enforcement Training Standards Board under the Peace
12 Officer Firearm Training Act or obtained a waiver from that
13 Training Board based on at least 3 years of experience as a
14 sworn police officer or graduation from a police academy
15 recognized by the Training Board.

16 (235 ILCS 5/6-2) (from Ch. 43, par. 120)

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

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

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

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

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

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

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

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

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

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

20 (9) A copartnership, if any general partnership
21 thereof, or any limited partnership thereof, owning more
22 than 5% of the aggregate limited partner interest in such
23 copartnership would not be eligible to receive a license
24 hereunder for any reason other than residence within the
25 political subdivision, unless residency is required by
26 local ordinance.

1 (10) A corporation or limited liability company, if any
2 member, officer, manager or director thereof, or any
3 stockholder or stockholders owning in the aggregate more
4 than 5% of the stock of such corporation, would not be
5 eligible to receive a license hereunder for any reason
6 other than citizenship and residence within the political
7 subdivision.

8 (10a) A corporation or limited liability company
9 unless it is incorporated or organized in Illinois, or
10 unless it is a foreign corporation or foreign limited
11 liability company which is qualified under the Business
12 Corporation Act of 1983 or the Limited Liability Company
13 Act to transact business in Illinois. The Commission shall
14 permit and accept from an applicant for a license under
15 this Act proof prepared from the Secretary of State's
16 website that the corporation or limited liability company
17 is in good standing and is qualified under the Business
18 Corporation Act of 1983 or the Limited Liability Company
19 Act to transact business in Illinois.

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

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

1 court to answer charges for any such violation.

2 (13) A person who does not beneficially own the
3 premises for which a license is sought, or does not have a
4 lease thereon for the full period for which the license is
5 to be issued.

6 (14) Any law enforcing public official, including
7 members of local liquor control commissions, any mayor,
8 alderman, or member of the city council or commission, any
9 president of the village board of trustees, any member of a
10 village board of trustees, or any president or member of a
11 county board; and no such official shall have a direct
12 interest in the manufacture, sale, or distribution of
13 alcoholic liquor, except that a license may be granted to
14 such official in relation to premises that are not located
15 within the territory subject to the jurisdiction of that
16 official if the issuance of such license is approved by the
17 State Liquor Control Commission and except that a license
18 may be granted, in a city or village with a population of
19 50,000 or less, to any alderman, member of a city council,
20 or member of a village board of trustees in relation to
21 premises that are located within the territory subject to
22 the jurisdiction of that official if (i) the sale of
23 alcoholic liquor pursuant to the license is incidental to
24 the selling of food, (ii) the issuance of the license is
25 approved by the State Commission, (iii) the issuance of the
26 license is in accordance with all applicable local

1 ordinances in effect where the premises are located, and
2 (iv) the official granted a license does not vote on
3 alcoholic liquor issues pending before the board or council
4 to which the license holder is elected. Notwithstanding any
5 provision of this paragraph (14) to the contrary, a mayor,
6 an alderman or member of a city council or commission, a
7 member or president of a village board of trustees ~~other~~
8 ~~than the president of the village board of trustees,~~ or a
9 member or president of a county board ~~other than the~~
10 ~~president of a county board~~ may have a direct interest in
11 the manufacture, sale, or distribution of alcoholic liquor
12 as long as he or she is not a law enforcing public
13 official, ~~a mayor, a village board president, or president~~
14 ~~of a county board.~~ To prevent any conflict of interest, the
15 elected official with the direct interest in the
16 manufacture, sale, or distribution of alcoholic liquor
17 cannot participate in any meetings, hearings, or decisions
18 on matters impacting the manufacture, sale, or
19 distribution of alcoholic liquor; and in the case of a
20 mayor, village board president, or president of a county
21 board, he or she must delegate any authority that he or she
22 has over the manufacture, sale, or distribution of
23 alcoholic liquor pursuant to any State statute or county or
24 municipal ordinance, to another municipal, village, or
25 county official in the jurisdiction over which he or she
26 presides.

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

3 (16) A person who has been convicted of a gambling
4 offense as proscribed by any of subsections (a) (3) through
5 (a) (11) of Section 28-1 of, or as proscribed by Section
6 28-1.1 or 28-3 of, the Criminal Code of 1961, or as
7 proscribed by a statute replaced by any of the aforesaid
8 statutory provisions.

9 (17) A person or entity to whom a federal wagering
10 stamp has been issued by the federal government, unless the
11 person or entity is eligible to be issued a license under
12 the Raffles Act or the Illinois Pull Tabs and Jar Games
13 Act.

14 (18) A person who intends to sell alcoholic liquors for
15 use or consumption on his or her licensed retail premises
16 who does not have liquor liability insurance coverage for
17 that premises in an amount that is at least equal to the
18 maximum liability amounts set out in subsection (a) of
19 Section 6-21.

20 (b) A criminal conviction of a corporation is not grounds
21 for the denial, suspension, or revocation of a license applied
22 for or held by the corporation if the criminal conviction was
23 not the result of a violation of any federal or State law
24 concerning the manufacture, possession or sale of alcoholic
25 liquor, the offense that led to the conviction did not result
26 in any financial gain to the corporation and the corporation

1 has terminated its relationship with each director, officer,
2 employee, or controlling shareholder whose actions directly
3 contributed to the conviction of the corporation. The
4 Commission shall determine if all provisions of this subsection
5 (b) have been met before any action on the corporation's
6 license is initiated.

7 (Source: P.A. 94-5, eff. 6-3-05; 94-289, eff. 1-1-06; 94-381,
8 eff. 7-29-05; 95-331, eff. 8-21-07.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.