

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 Executive Reorganization Implementation Act  
5 is amended by changing Section 3.1 as follows:

6 (15 ILCS 15/3.1) (from Ch. 127, par. 1803.1)

7 Sec. 3.1. "Agency directly responsible to the Governor" or  
8 "agency" means any office, officer, division, or part thereof,  
9 and any other office, nonelective officer, department,  
10 division, bureau, board, or commission in the executive branch  
11 of State government, except that it does not apply to any  
12 agency whose primary function is service to the General  
13 Assembly or the Judicial Branch of State government, or to any  
14 agency administered by the Attorney General, Secretary of  
15 State, State Comptroller or State Treasurer. In addition the  
16 term does not apply to the following agencies created by law  
17 with the primary responsibility of exercising regulatory or  
18 adjudicatory functions independently of the Governor:

- 19 (1) the State Board of Elections;  
20 (2) the State Board of Education;  
21 (3) the Illinois Commerce Commission;  
22 (4) the Illinois Workers' Compensation Commission;  
23 (5) the Civil Service Commission;

- 1 (6) the Fair Employment Practices Commission;
- 2 (7) the Pollution Control Board;
- 3 (8) the Department of State Police Merit Board;
- 4 (9) the Illinois Racing Board;
- 5 (10) the Illinois Power Agency;
- 6 (11) the Illinois Liquor Control Commission.

7 (Source: P.A. 96-796, eff. 10-29-09; 97-618, eff. 10-26-11.)

8 Section 10. The Liquor Control Act of 1934 is amended by  
9 changing Sections 3-2, 3-12, and 8-5 and by adding Section 3-20  
10 as follows:

11 (235 ILCS 5/3-2) (from Ch. 43, par. 98)

12 Sec. 3-2. Immediately, or soon as may be after the  
13 effective date of this Act, the Governor shall appoint 3  
14 members of the commission, one of whom shall be designated as  
15 "Chairman", one to hold office for a period of 2 years, one to  
16 hold office for a period of 4 years and one to hold office for a  
17 period of 6 years. Immediately, or as soon as may be after the  
18 effective date of this amendatory Act of 1983, the Governor  
19 shall appoint 2 members to the commission to the offices  
20 created by this amendatory Act of 1983, one for an initial term  
21 expiring the third Monday in January of 1986 and one for an  
22 initial term expiring the third Monday in January of 1988. At  
23 the expiration of the term of any such commissioner the  
24 Governor shall reappoint said commissioner or appoint a

1 successor of said commissioner for a period of 6 years. The  
2 Governor shall have power to fill vacancies in the office of  
3 any commissioner.

4 Notwithstanding any provision of this Section to the  
5 contrary, the term of office of each member of the commission  
6 is abolished on the effective date of this amendatory Act of  
7 1985, but the incumbent members shall continue to exercise all  
8 of the powers and be subject to all of the duties of members of  
9 the commission until their respective successors are appointed  
10 and qualified. The Governor shall appoint 2 members of the  
11 commission whose terms of office shall expire on February 1,  
12 1986, 2 members of the commission whose terms of office shall  
13 expire on February 1, 1988, and one member of the commission  
14 whose term shall expire on February 1, 1990. Their respective  
15 successors shall be appointed for terms of 6 years from the  
16 first day of February of the year of appointment. Each member  
17 shall serve until his successor is appointed and qualified.

18 The initial term of both of the 2 additional members  
19 appointed pursuant to this amendatory Act of the 91st General  
20 Assembly shall expire on February 1, 2006. Their respective  
21 successors shall be appointed for terms of 6 years from the  
22 first day of February of the year of appointment. Each member  
23 shall serve until his or her successor is appointed and  
24 qualified.

25 Notwithstanding any action taken to fill the office on an  
26 acting, temporary, or other basis, the office of Executive

1 Director of the Commission shall be vacant on January 1, 2019.  
2 On and after January 1, 2019, the Governor shall appoint the  
3 Executive Director of the Commission for a 4-year term, with  
4 the advice and consent of the Senate.

5 (Source: P.A. 91-798, eff. 7-9-00.)

6 (235 ILCS 5/3-12)

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  
25 action taken pursuant to a violation of Section 6-3, 6-5,

1 or 6-9, any action by the State Commission to suspend or  
2 revoke a licensee's license may be limited to the license  
3 for the specific premises where the violation occurred. An  
4 action for a violation of this Act shall be commenced by  
5 the State Commission within 2 years after the date the  
6 State Commission becomes aware of the violation.

7 In lieu of suspending or revoking a license, the  
8 commission may impose a fine, upon the State commission's  
9 determination and notice after hearing, that a licensee has  
10 violated any provision of this Act or any rule or  
11 regulation issued pursuant thereto and in effect for 30  
12 days prior to such violation.

13 For the purpose of this paragraph (1), when determining  
14 multiple violations for the sale of alcohol to a person  
15 under the age of 21, a second or subsequent violation for  
16 the sale of alcohol to a person under the age of 21 shall  
17 only be considered if it was committed within 5 years after  
18 the date when a prior violation for the sale of alcohol to  
19 a person under the age of 21 was committed.

20 The fine imposed under this paragraph may not exceed  
21 \$500 for each violation. Each day that the activity, which  
22 gave rise to the original fine, continues is a separate  
23 violation. The maximum fine that may be levied against any  
24 licensee, for the period of the license, shall not exceed  
25 \$20,000. The maximum penalty that may be imposed on a  
26 licensee for selling a bottle of alcoholic liquor with a

1 foreign object in it or serving from a bottle of alcoholic  
2 liquor with a foreign object in it shall be the destruction  
3 of that bottle of alcoholic liquor for the first 10 bottles  
4 so sold or served from by the licensee. For the eleventh  
5 bottle of alcoholic liquor and for each third bottle  
6 thereafter sold or served from by the licensee with a  
7 foreign object in it, the maximum penalty that may be  
8 imposed on the licensee is the destruction of the bottle of  
9 alcoholic liquor and a fine of up to \$50.

10 Any notice issued by the State Commission to a licensee  
11 for a violation of this Act or any notice with respect to  
12 settlement or offer in compromise shall include the field  
13 report, photographs, and any other supporting  
14 documentation necessary to reasonably inform the licensee  
15 of the nature and extent of the violation or the conduct  
16 alleged to have occurred. The failure to include such  
17 required documentation shall result in the dismissal of the  
18 action.

19 (2) To adopt such rules and regulations consistent with  
20 the provisions of this Act which shall be necessary to  
21 carry on its functions and duties to the end that the  
22 health, safety and welfare of the People of the State of  
23 Illinois shall be protected and temperance in the  
24 consumption of alcoholic liquors shall be fostered and  
25 promoted and to distribute copies of such rules and  
26 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. Nothing in this Act  
13 authorizes an agent of the Commission to inspect private  
14 areas within the premises without reasonable suspicion or a  
15 warrant during an inspection. "Private areas" include, but  
16 are not limited to, safes, personal property, and closed  
17 desks.

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

26          (5.2) To issue a cease and desist notice to persons

1 shipping alcoholic liquor into this State from a point  
2 outside of this State if the shipment is in violation of  
3 this Act.

4 (5.3) To receive complaints from licensees, local  
5 officials, law enforcement agencies, organizations, and  
6 persons stating that any licensee has been or is violating  
7 any provision of this Act or the rules and regulations  
8 issued pursuant to this Act. Such complaints shall be in  
9 writing, signed and sworn to by the person making the  
10 complaint, and shall state with specificity the facts in  
11 relation to the alleged violation. If the Commission has  
12 reasonable grounds to believe that the complaint  
13 substantially alleges a violation of this Act or rules and  
14 regulations adopted pursuant to this Act, it shall conduct  
15 an investigation. If, after conducting an investigation,  
16 the Commission is satisfied that the alleged violation did  
17 occur, it shall proceed with disciplinary action against  
18 the licensee as provided in this Act.

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

25 (7) The commission shall establish uniform systems of  
26 accounts to be kept by all retail licensees having more



1 than 4 employees, and for this purpose the commission may  
2 classify all retail licensees having more than 4 employees  
3 and establish a uniform system of accounts for each class  
4 and prescribe the manner in which such accounts shall be  
5 kept. The commission may also prescribe the forms of  
6 accounts to be kept by all retail licensees having more  
7 than 4 employees, including but not limited to accounts of  
8 earnings and expenses and any distribution, payment, or  
9 other distribution of earnings or assets, and any other  
10 forms, records and memoranda which in the judgment of the  
11 commission may be necessary or appropriate to carry out any  
12 of the provisions of this Act, including but not limited to  
13 such forms, records and memoranda as will readily and  
14 accurately disclose at all times the beneficial ownership  
15 of such retail licensed business. The accounts, forms,  
16 records and memoranda shall be available at all reasonable  
17 times for inspection by authorized representatives of the  
18 State commission or by any local liquor control  
19 commissioner or his or her authorized representative. The  
20 commission, may, from time to time, alter, amend or repeal,  
21 in whole or in part, any uniform system of accounts, or the  
22 form and manner of keeping accounts.

23 (8) In the conduct of any hearing authorized to be held  
24 by the commission, to appoint, at the commission's  
25 discretion, hearing officers to conduct hearings involving  
26 complex issues or issues that will require a protracted

1 period of time to resolve, to examine, or cause to be  
2 examined, under oath, any licensee, and to examine or cause  
3 to be examined the books and records of such licensee; to  
4 hear testimony and take proof material for its information  
5 in the discharge of its duties hereunder; to administer or  
6 cause to be administered oaths; for any such purpose to  
7 issue subpoena or subpoenas to require the attendance of  
8 witnesses and the production of books, which shall be  
9 effective in any part of this State, and to adopt rules to  
10 implement its powers under this paragraph (8).

11 Any Circuit Court may by order duly entered, require  
12 the attendance of witnesses and the production of relevant  
13 books subpoenaed by the State commission and the court may  
14 compel obedience to its order by proceedings for contempt.

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

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

1           (11) To develop industry educational programs related  
2 to responsible serving and selling, particularly in the  
3 areas of overserving consumers and illegal underage  
4 purchasing and consumption of alcoholic beverages.

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

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

17           (13) On or before January 15, 1994, the Commission  
18 shall issue a written report to the Governor and General  
19 Assembly that is to be based on a comprehensive study of  
20 the impact on and implications for the State of Illinois of  
21 Section 1926 of the federal ADAMHA Reorganization Act of  
22 1992 (Public Law 102-321). This study shall address the  
23 extent to which Illinois currently complies with the  
24 provisions of P.L. 102-321 and the rules promulgated  
25 pursuant thereto.

26           As part of its report, the Commission shall provide the

1 following essential information:

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

4 (ii) the number of reported citations and  
5 successful convictions, categorized by type and  
6 location of retail distributor, for violation of the  
7 Prevention of Tobacco Use by Minors and Sale and  
8 Distribution of Tobacco Products Act and the Smokeless  
9 Tobacco Limitation Act;

10 (iii) the extent and nature of organized  
11 educational and governmental activities that are  
12 intended to promote, encourage or otherwise secure  
13 compliance with any Illinois laws that prohibit the  
14 sale or distribution of tobacco products to minors; and

15 (iv) the level of access and availability of  
16 tobacco products to individuals under the age of 18.

17 To obtain the data necessary to comply with the  
18 provisions of P.L. 102-321 and the requirements of this  
19 report, the Commission shall conduct random, unannounced  
20 inspections of a geographically and scientifically  
21 representative sample of the State's retail tobacco  
22 distributors.

23 The Commission shall consult with the Department of  
24 Public Health, the Department of Human Services, the  
25 Illinois State Police and any other executive branch  
26 agency, and private organizations that may have

1 information relevant to this report.

2 The Commission may contract with the Food and Drug  
3 Administration of the U.S. Department of Health and Human  
4 Services to conduct unannounced investigations of Illinois  
5 tobacco vendors to determine compliance with federal laws  
6 relating to the illegal sale of cigarettes and smokeless  
7 tobacco products to persons under the age of 18.

8 (14) On or before April 30, 2008 and every 2 years  
9 thereafter, the Commission shall present a written report  
10 to the Governor and the General Assembly that shall be  
11 based on a study of the impact of Public Act 95-634 on the  
12 business of soliciting, selling, and shipping wine from  
13 inside and outside of this State directly to residents of  
14 this State. As part of its report, the Commission shall  
15 provide all of the following information:

16 (A) The amount of State excise and sales tax  
17 revenues generated.

18 (B) The amount of licensing fees received.

19 (C) The number of cases of wine shipped from inside  
20 and outside of this State directly to residents of this  
21 State.

22 (D) The number of alcohol compliance operations  
23 conducted.

24 (E) The number of winery shipper's licenses  
25 issued.

26 (F) The number of each of the following: reported

1 violations; cease and desist notices issued by the  
2 Commission; notices of violations issued by the  
3 Commission and to the Department of Revenue; and  
4 notices and complaints of violations to law  
5 enforcement officials, including, without limitation,  
6 the Illinois Attorney General and the U.S. Department  
7 of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

8 (15) As a means to reduce the underage consumption of  
9 alcoholic liquors, the Commission shall conduct alcohol  
10 compliance operations to investigate whether businesses  
11 that are soliciting, selling, and shipping wine from inside  
12 or outside of this State directly to residents of this  
13 State are licensed by this State or are selling or  
14 attempting to sell wine to persons under 21 years of age in  
15 violation of this Act.

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

23 (17) (A) A person licensed to make wine under the laws  
24 of another state who has a winery shipper's license under  
25 this Act and annually produces less than 25,000 gallons of  
26 wine or a person who has a first-class or second-class wine

1 manufacturer's license, a first-class or second-class  
2 wine-maker's license, or a limited wine manufacturer's  
3 license under this Act and annually produces less than  
4 25,000 gallons of wine may make application to the  
5 Commission for a self-distribution exemption to allow the  
6 sale of not more than 5,000 gallons of the exemption  
7 holder's wine to retail licensees per year.

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

17 (C) The Commission shall approve the application for a  
18 self-distribution exemption if such person: (1) is in  
19 compliance with State revenue and liquor laws; (2) is not a  
20 member of any affiliated group that produces more than  
21 25,000 gallons of wine per annum or produces any other  
22 alcoholic liquor; (3) will not annually produce for sale  
23 more than 25,000 gallons of wine; and (4) will not annually  
24 sell more than 5,000 gallons of its wine to retail  
25 licensees.

26 (D) A self-distribution exemption holder shall

1           annually certify to the Commission its production of wine  
2           in the previous 12 months and its anticipated production  
3           and sales for the next 12 months. The Commission may fine,  
4           suspend, or revoke a self-distribution exemption after a  
5           hearing if it finds that the exemption holder has made a  
6           material misrepresentation in its application, violated a  
7           revenue or liquor law of Illinois, exceeded production of  
8           25,000 gallons of wine in any calendar year, or become part  
9           of an affiliated group producing more than 25,000 gallons  
10          of wine or any other alcoholic liquor.

11           (E) Except in hearings for violations of this Act or  
12          Public Act 95-634 or a bona fide investigation by duly  
13          sworn law enforcement officials, the Commission, or its  
14          agents, the Commission shall maintain the production and  
15          sales information of a self-distribution exemption holder  
16          as confidential and shall not release such information to  
17          any person.

18           (F) The Commission shall issue regulations governing  
19          self-distribution exemptions consistent with this Section  
20          and this Act.

21           (G) Nothing in this subsection (17) shall prohibit a  
22          self-distribution exemption holder from entering into or  
23          simultaneously having a distribution agreement with a  
24          licensed Illinois distributor.

25           (H) It is the intent of this subsection (17) to promote  
26          and continue orderly markets. The General Assembly finds



1           that in order to preserve Illinois' regulatory  
2           distribution system it is necessary to create an exception  
3           for smaller makers of wine as their wines are frequently  
4           adjusted in varietals, mixes, vintages, and taste to find  
5           and create market niches sometimes too small for  
6           distributor or importing distributor business strategies.  
7           Limited self-distribution rights will afford and allow  
8           smaller makers of wine access to the marketplace in order  
9           to develop a customer base without impairing the integrity  
10          of the 3-tier system.

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

18           (B) In the application, which shall be sworn under  
19          penalty of perjury, the class 1 brewer licensee shall state  
20          (1) the date it was established; (2) its volume of beer  
21          manufactured and sold for each year since its  
22          establishment; (3) its efforts to establish distributor  
23          relationships; (4) that a self-distribution exemption is  
24          necessary to facilitate the marketing of its beer; and (5)  
25          that it will comply with the alcoholic beverage and revenue  
26          laws of the United States, this State, and any other state

1 where it is licensed.

2 (C) Any application submitted shall be posted on the  
3 State Commission's website at least 45 days prior to action  
4 by the State Commission. The State Commission shall approve  
5 the application for a self-distribution exemption if the  
6 class 1 brewer licensee: (1) is in compliance with the  
7 State, revenue, and alcoholic beverage laws; (2) is not a  
8 member of any affiliated group that manufactures more than  
9 930,000 gallons of beer per annum or produces any other  
10 alcoholic beverages; (3) shall not annually manufacture  
11 for sale more than 930,000 gallons of beer; (4) shall not  
12 annually sell more than 232,500 gallons of its beer to  
13 retail licensees; and (5) has relinquished any brew pub  
14 license held by the licensee, including any ownership  
15 interest it held in the licensed brew pub.

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

1 than 930,000 gallons of beer or any other alcoholic  
2 beverage.

3 (E) The State Commission shall issue rules and  
4 regulations governing self-distribution exemptions  
5 consistent with this Act.

6 (F) Nothing in this paragraph (18) shall prohibit a  
7 self-distribution exemption holder from entering into or  
8 simultaneously having a distribution agreement with a  
9 licensed Illinois importing distributor or a distributor.  
10 If a self-distribution exemption holder enters into a  
11 distribution agreement and has assigned distribution  
12 rights to an importing distributor or distributor, then the  
13 self-distribution exemption holder's distribution rights  
14 in the assigned territories shall cease in a reasonable  
15 time not to exceed 60 days.

16 (G) It is the intent of this paragraph (18) 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 manufacturers in order to afford and allow such  
21 smaller manufacturers of beer access to the marketplace in  
22 order to develop a customer base without impairing the  
23 integrity of the 3-tier system.

24 (b) On or before April 30, 1999, the Commission shall  
25 present a written report to the Governor and the General  
26 Assembly that shall be based on a study of the impact of Public

1 Act 90-739 on the business of soliciting, selling, and shipping  
2 alcoholic liquor from outside of this State directly to  
3 residents of this State.

4 As part of its report, the Commission shall provide the  
5 following information:

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

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

10 (iii) the number of reported violations, the number of  
11 cease and desist notices issued by the Commission, the  
12 number of notices of violations issued to the Department of  
13 Revenue, and the number of notices and complaints of  
14 violations to law enforcement officials.

15 (Source: P.A. 99-78, eff. 7-20-15; 99-448, eff. 8-24-15;  
16 100-134, eff. 8-18-17; 100-201, eff. 8-18-17.)

17 (235 ILCS 5/3-20 new)

18 Sec. 3-20. State Commission; separation from the  
19 Department of Revenue.

20 (a) Executive Order No. 2003-9 is hereby superseded by this  
21 amendatory Act of the 100th General Assembly to the extent that  
22 Executive Order No. 2003-9 transferred clerks, management and  
23 staff support, employees, and other resources from the State  
24 Commission to the Department of Revenue.

25 (b) To the extent that Executive Order No. 2003-9

1 transferred personnel to the Department of Revenue from the  
2 State Commission, those personnel shall be transferred to the  
3 State Commission. The status and rights of such employees under  
4 the Personnel Code shall not be affected by the transfer. The  
5 rights of the employees and the State of Illinois and its  
6 agencies under the Personnel Code and applicable collective  
7 bargaining agreements or under any pension, retirement, or  
8 annuity plan shall not be affected by this amendatory Act of  
9 the 100th General Assembly. To the extent that an employee  
10 performs duties for the State Commission and the Department of  
11 Revenue itself or any other division or agency within the  
12 Department of Revenue, that employee shall be transferred at  
13 the Governor's discretion.

14 (c) All books, records, papers, documents, property (real  
15 and personal), contracts, causes of action, and pending  
16 business pertaining to the powers, duties, rights, and  
17 responsibilities transferred by this amendatory Act of the  
18 100th General Assembly from the Department of Revenue to the  
19 State Commission, including, but not limited to, material in  
20 electronic or magnetic format and necessary computer hardware  
21 and software, shall be transferred to the State Commission.

22 (d) All unexpended appropriations and balances and other  
23 funds available for use by the Department of Revenue to operate  
24 the State Commission shall be transferred for use by the State  
25 Commission. Unexpended balances so transferred shall be  
26 expended only for the purpose for which the appropriations were

1 originally made.

2 (e) The powers, duties, rights, and responsibilities  
3 transferred from the Department of Revenue by this amendatory  
4 Act of the 100th General Assembly shall be vested in and shall  
5 be exercised by the State Commission.

6 (f) Whenever reports or notices are now required to be made  
7 or given or papers or documents furnished or served by any  
8 person to or upon the Department of Revenue in connection with  
9 any of the powers, duties, rights, and responsibilities  
10 transferred by this amendatory Act of the 100th General  
11 Assembly, the same shall be made, given, furnished, or served  
12 in the same manner to or upon the State Commission.

13 (g) Any rules of the Department of Revenue that relate to  
14 the functions transferred from the State Commission to the  
15 Department of Revenue by Executive Order No. 2003-9 that are in  
16 full force on the effective date of this amendatory Act of the  
17 100th General Assembly shall become the rules of the State  
18 Commission. This amendatory Act of the 100th General Assembly  
19 does not affect the legality of any such rules in the Illinois  
20 Administrative Code.

21 Any proposed rules filed with the Secretary of State by the  
22 Department of Revenue that are pending in the rulemaking  
23 process on the effective date of this amendatory Act of the  
24 100th General Assembly and pertain to the functions transferred  
25 from the State Commission to the Department of Revenue by  
26 Executive Order No. 2003-9 shall be deemed to have been filed

1 by the State Commission. As soon as practicable hereafter, the  
2 State Commission shall revise and clarify the rules transferred  
3 to it under this amendatory Act of the 100th General Assembly  
4 to reflect the reorganization of powers, duties, rights, and  
5 responsibilities affected by this amendatory Act of the 100th  
6 General Assembly, using the procedures for recodification of  
7 rules available under the Illinois Administrative Procedure  
8 Act, except that existing title, part, and section numbering  
9 for the affected rules may be retained.

10 (235 ILCS 5/8-5) (from Ch. 43, par. 163a)

11 Sec. 8-5. As soon as practicable after any return is filed  
12 but not before 90 days after the return is filed, or any  
13 amendments to that return, whichever is later, the Department  
14 shall examine such return or amended return and shall correct  
15 such return according to its best judgment and information,  
16 which return so corrected by the Department shall be prima  
17 facie correct and shall be prima facie evidence of the  
18 correctness of the amount of tax due, as shown therein. Instead  
19 of requiring the licensee to file an amended return, the  
20 Department may simply notify the licensee of the correction or  
21 corrections it has made. Proof of such correction by the  
22 Department, or of the determination of the amount of tax due as  
23 provided in Sections 8-4 and 8-10, may be made at any hearing  
24 before the Department or in any legal proceeding by a  
25 reproduced copy of the Department's record relating thereto in

1 the name of the Department under the certificate of the  
2 Director of Revenue. Such reproduced copy shall, without  
3 further proof, be admitted into evidence before the Department  
4 or in any legal proceeding and shall be prima facie proof of  
5 the correctness of the amount of tax due, as shown therein. If  
6 the return so corrected by the Department discloses the sale or  
7 use, by a licensed manufacturer or importing distributor, of  
8 alcoholic liquors as to which the tax provided for in this  
9 Article should have been paid, but has not been paid, in excess  
10 of the alcoholic liquors reported as being taxable by the  
11 licensee, and as to which the proper tax was paid the  
12 Department shall notify the licensee that it shall issue the  
13 taxpayer a notice of tax liability for the amount of tax  
14 claimed by the Department to be due, together with penalties at  
15 the rates prescribed by Sections 3-3, 3-5 and 3-6 of the  
16 Uniform Penalty and Interest Act, which amount of tax shall be  
17 equivalent to the amount of tax which, at the prescribed rate  
18 per gallon, should have been paid with respect to the alcoholic  
19 liquors disposed of in excess of those reported as being  
20 taxable. In a case where no return has been filed, the  
21 Department shall determine the amount of tax due according to  
22 its best judgment and information and shall issue the taxpayer  
23 a notice of tax liability for the amount of tax claimed by the  
24 Department to be due as herein provided together with penalties  
25 at the rates prescribed by Sections 3-3, 3-5 and 3-6 of the  
26 Uniform Penalty and Interest Act. If, in administering the



1 provisions of this Act, a comparison of a licensee's return or  
2 returns with the books, records and physical inventories of  
3 such licensee discloses a deficiency which cannot be allocated  
4 by the Department to a particular month or months, the  
5 Department shall issue the taxpayer a notice of tax liability  
6 for the amount of tax claimed by the Department to be due for a  
7 given period, but without any obligation upon the Department to  
8 allocate such deficiency to any particular month or months,  
9 together with penalties at the rates prescribed by Sections  
10 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act, which  
11 amount of tax shall be equivalent to the amount of tax which,  
12 at the prescribed rate per gallon, should have been paid with  
13 respect to the alcoholic liquors disposed of in excess of those  
14 reported being taxable, with the tax thereon having been paid  
15 under which circumstances the aforesaid notice of tax liability  
16 shall be prima facie correct and shall be prima facie evidence  
17 of the correctness of the amount of tax due as shown therein;  
18 and proof of such correctness may be made in accordance with,  
19 and the admissibility of a reproduced copy of such notice of  
20 the Department's notice of tax liability shall be governed by,  
21 all the provisions of this Act applicable to corrected returns.

22 If the licensee dies or becomes a person under legal  
23 disability at any time before the Department issues its notice  
24 of tax liability, such notice shall be issued to the  
25 administrator, executor or other legal representative, as  
26 such, of the deceased or licensee who is under legal

1 disability.

2 If such licensee or legal representative, within 60 days  
3 after such notice of tax liability, files a protest to such  
4 notice of tax liability and requests a hearing thereon, the  
5 Department shall give at least 7 days' notice to such licensee  
6 or legal representative, as the case may be, of the time and  
7 place fixed for such hearing and shall hold a hearing in  
8 conformity with the provisions of this Act, and pursuant  
9 thereto shall issue a final assessment to such licensee or  
10 legal representative for the amount found to be due as a result  
11 of such hearing.

12 If a protest to the notice of tax liability and a request  
13 for a hearing thereon is not filed within 60 days after such  
14 notice of tax liability, such notice of tax liability shall  
15 become final without the necessity of a final assessment being  
16 issued and shall be deemed to be a final assessment.

17 In case of failure to pay the tax, or any portion thereof,  
18 or any penalty provided for herein, when due, the Department  
19 may recover the amount of such tax, or portion thereof, or  
20 penalty in a civil action; or if the licensee dies or becomes a  
21 person under legal disability, by filing a claim therefor  
22 against his or her estate; provided that no such claim shall be  
23 filed against the estate of any deceased or of the licensee who  
24 is under legal disability for any tax or penalty or portion  
25 thereof except in the manner prescribed and within the time  
26 limited by the Probate Act of 1975, as amended.

1           The collection of any such tax and penalty, or either, by  
2 any means provided for herein, shall not be a bar to any  
3 prosecution under this Act.

4           In addition to any other penalty provided for in this  
5 Article, any licensee who fails to pay any tax within the time  
6 required by this Article shall be subject to assessment of  
7 penalties and interest at rates set forth in the Uniform  
8 Penalty and Interest Act.

9           (Source: P.A. 87-205; 87-879.)

10           Section 99. Effective date. This Act takes effect January  
11 1, 2019, except that this Section and changes to Section 3-12  
12 of the Liquor Control Act of 1934 take effect upon becoming  
13 law.