



Sen. Antonio Muñoz

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1 AMENDMENT TO SENATE BILL 3022

2 AMENDMENT NO. _____. Amend Senate Bill 3022 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Executive Reorganization Implementation
5 Act 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

1 with the primary responsibility of exercising regulatory or
2 adjudicatory functions independently of the Governor:

3 (1) the State Board of Elections;

4 (2) the State Board of Education;

5 (3) the Illinois Commerce Commission;

6 (4) the Illinois Workers' Compensation Commission;

7 (5) the Civil Service Commission;

8 (6) the Fair Employment Practices Commission;

9 (7) the Pollution Control Board;

10 (8) the Department of State Police Merit Board;

11 (9) the Illinois Racing Board;

12 (10) the Illinois Power Agency;

13 (11) the Illinois Liquor Control Commission.

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

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

18 (235 ILCS 5/3-2) (from Ch. 43, par. 98)

19 Sec. 3-2. Immediately, or soon as may be after the
20 effective date of this Act, the Governor shall appoint 3
21 members of the commission, one of whom shall be designated as
22 "Chairman", one to hold office for a period of 2 years, one to
23 hold office for a period of 4 years and one to hold office for a
24 period of 6 years. Immediately, or as soon as may be after the

1 effective date of this amendatory Act of 1983, the Governor
2 shall appoint 2 members to the commission to the offices
3 created by this amendatory Act of 1983, one for an initial term
4 expiring the third Monday in January of 1986 and one for an
5 initial term expiring the third Monday in January of 1988. At
6 the expiration of the term of any such commissioner the
7 Governor shall reappoint said commissioner or appoint a
8 successor of said commissioner for a period of 6 years. The
9 Governor shall have power to fill vacancies in the office of
10 any commissioner.

11 Notwithstanding any provision of this Section to the
12 contrary, the term of office of each member of the commission
13 is abolished on the effective date of this amendatory Act of
14 1985, but the incumbent members shall continue to exercise all
15 of the powers and be subject to all of the duties of members of
16 the commission until their respective successors are appointed
17 and qualified. The Governor shall appoint 2 members of the
18 commission whose terms of office shall expire on February 1,
19 1986, 2 members of the commission whose terms of office shall
20 expire on February 1, 1988, and one member of the commission
21 whose term shall expire on February 1, 1990. Their respective
22 successors shall be appointed for terms of 6 years from the
23 first day of February of the year of appointment. Each member
24 shall serve until his successor is appointed and qualified.

25 The initial term of both of the 2 additional members
26 appointed pursuant to this amendatory Act of the 91st General

1 Assembly shall expire on February 1, 2006. Their respective
2 successors shall be appointed for terms of 6 years from the
3 first day of February of the year of appointment. Each member
4 shall serve until his or her successor is appointed and
5 qualified.

6 Notwithstanding any action taken to fill the office on an
7 acting, temporary, or other basis, the office of Executive
8 Director of the Commission shall be vacant on January 1, 2019.
9 On and after January 1, 2019, the Governor shall appoint the
10 Executive Director of the Commission for a 4-year term, with
11 the advice and consent of the Senate.

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

13 (235 ILCS 5/3-12)

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

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

17 (1) To receive applications and to issue licenses to
18 manufacturers, foreign importers, importing distributors,
19 distributors, non-resident dealers, on premise consumption
20 retailers, off premise sale retailers, special event
21 retailer licensees, special use permit licenses, auction
22 liquor licenses, brew pubs, caterer retailers,
23 non-beverage users, railroads, including owners and
24 lessees of sleeping, dining and cafe cars, airplanes,
25 boats, brokers, and wine maker's premises licensees in

1 accordance with the provisions of this Act, and to suspend
2 or revoke such licenses upon the State commission's
3 determination, upon notice after hearing, that a licensee
4 has violated any provision of this Act or any rule or
5 regulation issued pursuant thereto and in effect for 30
6 days prior to such violation. Except in the case of an
7 action taken pursuant to a violation of Section 6-3, 6-5,
8 or 6-9, any action by the State Commission to suspend or
9 revoke a licensee's license may be limited to the license
10 for the specific premises where the violation occurred. An
11 action for a violation of this Act shall be commenced by
12 the State Commission within 2 years after the date the
13 State Commission becomes aware of the violation.

14 In lieu of suspending or revoking a license, the
15 commission may impose a fine, upon the State commission's
16 determination and notice after hearing, that a licensee has
17 violated any provision of this Act or any rule or
18 regulation issued pursuant thereto and in effect for 30
19 days prior to such violation.

20 For the purpose of this paragraph (1), when determining
21 multiple violations for the sale of alcohol to a person
22 under the age of 21, a second or subsequent violation for
23 the sale of alcohol to a person under the age of 21 shall
24 only be considered if it was committed within 5 years after
25 the date when a prior violation for the sale of alcohol to
26 a person under the age of 21 was committed.

1 The fine imposed under this paragraph may not exceed
2 \$500 for each violation. Each day that the activity, which
3 gave rise to the original fine, continues is a separate
4 violation. The maximum fine that may be levied against any
5 licensee, for the period of the license, shall not exceed
6 \$20,000. The maximum penalty that may be imposed on a
7 licensee for selling a bottle of alcoholic liquor with a
8 foreign object in it or serving from a bottle of alcoholic
9 liquor with a foreign object in it shall be the destruction
10 of that bottle of alcoholic liquor for the first 10 bottles
11 so sold or served from by the licensee. For the eleventh
12 bottle of alcoholic liquor and for each third bottle
13 thereafter sold or served from by the licensee with a
14 foreign object in it, the maximum penalty that may be
15 imposed on the licensee is the destruction of the bottle of
16 alcoholic liquor and a fine of up to \$50.

17 Any notice issued by the State Commission to a licensee
18 for a violation of this Act or any notice with respect to
19 settlement or offer in compromise shall include the field
20 report, photographs, and any other supporting
21 documentation necessary to reasonably inform the licensee
22 of the nature and extent of the violation or the conduct
23 alleged to have occurred. The failure to include such
24 required documentation shall result in the dismissal of the
25 action.

26 (2) To adopt such rules and regulations consistent with

1 the provisions of this Act which shall be necessary to
2 carry on its functions and duties to the end that the
3 health, safety and welfare of the People of the State of
4 Illinois shall be protected and temperance in the
5 consumption of alcoholic liquors shall be fostered and
6 promoted and to distribute copies of such rules and
7 regulations to all licensees affected thereby.

8 (3) To call upon other administrative departments of
9 the State, county and municipal governments, county and
10 city police departments and upon prosecuting officers for
11 such information and assistance as it deems necessary in
12 the performance of its duties.

13 (4) To recommend to local commissioners rules and
14 regulations, not inconsistent with the law, for the
15 distribution and sale of alcoholic liquors throughout the
16 State.

17 (5) To inspect, or cause to be inspected, any premises
18 in this State where alcoholic liquors are manufactured,
19 distributed, warehoused, or sold. Nothing in this Act
20 authorizes an agent of the Commission to inspect private
21 areas within the premises without reasonable suspicion or a
22 warrant during an inspection. "Private areas" include, but
23 are not limited to, safes, personal property, and closed
24 desks.

25 (5.1) Upon receipt of a complaint or upon having
26 knowledge that any person is engaged in business as a

1 manufacturer, importing distributor, distributor, or
2 retailer without a license or valid license, to notify the
3 local liquor authority, file a complaint with the State's
4 Attorney's Office of the county where the incident
5 occurred, or initiate an investigation with the
6 appropriate law enforcement officials.

7 (5.2) To issue a cease and desist notice to persons
8 shipping alcoholic liquor into this State from a point
9 outside of this State if the shipment is in violation of
10 this Act.

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

26 (6) To hear and determine appeals from orders of a

1 local commission in accordance with the provisions of this
2 Act, as hereinafter set forth. Hearings under this
3 subsection shall be held in Springfield or Chicago, at
4 whichever location is the more convenient for the majority
5 of persons who are parties to the hearing.

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

1 commission, may, from time to time, alter, amend or repeal,
2 in whole or in part, any uniform system of accounts, or the
3 form and manner of keeping accounts.

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

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

22 (9) To investigate the administration of laws in
23 relation to alcoholic liquors in this and other states and
24 any foreign countries, and to recommend from time to time
25 to the Governor and through him or her to the legislature
26 of this State, such amendments to this Act, if any, as it

1 may think desirable and as will serve to further the
2 general broad purposes contained in Section 1-2 hereof.

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

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

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

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

24 (13) On or before January 15, 1994, the Commission
25 shall issue a written report to the Governor and General
26 Assembly that is to be based on a comprehensive study of

1 the impact on and implications for the State of Illinois of
2 Section 1926 of the federal ADAMHA Reorganization Act of
3 1992 (Public Law 102-321). This study shall address the
4 extent to which Illinois currently complies with the
5 provisions of P.L. 102-321 and the rules promulgated
6 pursuant thereto.

7 As part of its report, the Commission shall provide the
8 following essential information:

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

11 (ii) the number of reported citations and
12 successful convictions, categorized by type and
13 location of retail distributor, for violation of the
14 Prevention of Tobacco Use by Minors and Sale and
15 Distribution of Tobacco Products Act and the Smokeless
16 Tobacco Limitation Act;

17 (iii) the extent and nature of organized
18 educational and governmental activities that are
19 intended to promote, encourage or otherwise secure
20 compliance with any Illinois laws that prohibit the
21 sale or distribution of tobacco products to minors; and

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

24 To obtain the data necessary to comply with the
25 provisions of P.L. 102-321 and the requirements of this
26 report, the Commission shall conduct random, unannounced

1 inspections of a geographically and scientifically
2 representative sample of the State's retail tobacco
3 distributors.

4 The Commission shall consult with the Department of
5 Public Health, the Department of Human Services, the
6 Illinois State Police and any other executive branch
7 agency, and private organizations that may have
8 information relevant to this report.

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

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

23 (A) The amount of State excise and sales tax
24 revenues generated.

25 (B) The amount of licensing fees received.

26 (C) The number of cases of wine shipped from inside

1 and outside of this State directly to residents of this
2 State.

3 (D) The number of alcohol compliance operations
4 conducted.

5 (E) The number of winery shipper's licenses
6 issued.

7 (F) The number of each of the following: reported
8 violations; cease and desist notices issued by the
9 Commission; notices of violations issued by the
10 Commission and to the Department of Revenue; and
11 notices and complaints of violations to law
12 enforcement officials, including, without limitation,
13 the Illinois Attorney General and the U.S. Department
14 of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

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

23 (16) The Commission shall, in addition to notifying any
24 appropriate law enforcement agency, submit notices of
25 complaints or violations of Sections 6-29 and 6-29.1 by
26 persons who do not hold a winery shipper's license under

1 this Act to the Illinois Attorney General and to the U.S.
2 Department of Treasury's Alcohol and Tobacco Tax and Trade
3 Bureau.

4 (17) (A) A person licensed to make wine under the laws
5 of another state who has a winery shipper's license under
6 this Act and annually produces less than 25,000 gallons of
7 wine or a person who has a first-class or second-class wine
8 manufacturer's license, a first-class or second-class
9 wine-maker's license, or a limited wine manufacturer's
10 license under this Act and annually produces less than
11 25,000 gallons of wine may make application to the
12 Commission for a self-distribution exemption to allow the
13 sale of not more than 5,000 gallons of the exemption
14 holder's wine to retail licensees per year.

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

24 (C) The Commission shall approve the application for a
25 self-distribution exemption if such person: (1) is in
26 compliance with State revenue and liquor laws; (2) is not a

1 member of any affiliated group that produces more than
2 25,000 gallons of wine per annum or produces any other
3 alcoholic liquor; (3) will not annually produce for sale
4 more than 25,000 gallons of wine; and (4) will not annually
5 sell more than 5,000 gallons of its wine to retail
6 licensees.

7 (D) A self-distribution exemption holder shall
8 annually certify to the Commission its production of wine
9 in the previous 12 months and its anticipated production
10 and sales for the next 12 months. The Commission may fine,
11 suspend, or revoke a self-distribution exemption after a
12 hearing if it finds that the exemption holder has made a
13 material misrepresentation in its application, violated a
14 revenue or liquor law of Illinois, exceeded production of
15 25,000 gallons of wine in any calendar year, or become part
16 of an affiliated group producing more than 25,000 gallons
17 of wine or any other alcoholic liquor.

18 (E) Except in hearings for violations of this Act or
19 Public Act 95-634 or a bona fide investigation by duly
20 sworn law enforcement officials, the Commission, or its
21 agents, the Commission shall maintain the production and
22 sales information of a self-distribution exemption holder
23 as confidential and shall not release such information to
24 any person.

25 (F) The Commission shall issue regulations governing
26 self-distribution exemptions consistent with this Section

1 and this Act.

2 (G) Nothing in this subsection (17) shall prohibit a
3 self-distribution exemption holder from entering into or
4 simultaneously having a distribution agreement with a
5 licensed Illinois distributor.

6 (H) It is the intent of this subsection (17) to promote
7 and continue orderly markets. The General Assembly finds
8 that in order to preserve Illinois' regulatory
9 distribution system it is necessary to create an exception
10 for smaller makers of wine as their wines are frequently
11 adjusted in varietals, mixes, vintages, and taste to find
12 and create market niches sometimes too small for
13 distributor or importing distributor business strategies.
14 Limited self-distribution rights will afford and allow
15 smaller makers of wine access to the marketplace in order
16 to develop a customer base without impairing the integrity
17 of the 3-tier system.

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

25 (B) In the application, which shall be sworn under
26 penalty of perjury, the class 1 brewer licensee shall state

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

9 (C) Any application submitted shall be posted on the
10 State Commission's website at least 45 days prior to action
11 by the State Commission. The State Commission shall approve
12 the application for a self-distribution exemption if the
13 class 1 brewer licensee: (1) is in compliance with the
14 State, revenue, and alcoholic beverage laws; (2) is not a
15 member of any affiliated group that manufactures more than
16 930,000 gallons of beer per annum or produces any other
17 alcoholic beverages; (3) shall not annually manufacture
18 for sale more than 930,000 gallons of beer; (4) shall not
19 annually sell more than 232,500 gallons of its beer to
20 retail licensees; and (5) has relinquished any brew pub
21 license held by the licensee, including any ownership
22 interest it held in the licensed brew pub.

23 (D) A self-distribution exemption holder shall
24 annually certify to the State Commission its manufacture of
25 beer during the previous 12 months and its anticipated
26 manufacture and sales of beer for the next 12 months. The

1 State Commission may fine, suspend, or revoke a
2 self-distribution exemption after a hearing if it finds
3 that the exemption holder has made a material
4 misrepresentation in its application, violated a revenue
5 or alcoholic beverage law of Illinois, exceeded the
6 manufacture of 930,000 gallons of beer in any calendar year
7 or became part of an affiliated group manufacturing more
8 than 930,000 gallons of beer or any other alcoholic
9 beverage.

10 (E) The State Commission shall issue rules and
11 regulations governing self-distribution exemptions
12 consistent with this Act.

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

23 (G) It is the intent of this paragraph (18) to promote
24 and continue orderly markets. The General Assembly finds
25 that in order to preserve Illinois' regulatory
26 distribution system, it is necessary to create an exception

1 for smaller manufacturers in order to afford and allow such
2 smaller manufacturers of beer access to the marketplace in
3 order to develop a customer base without impairing the
4 integrity of the 3-tier system.

5 (b) On or before April 30, 1999, the Commission shall
6 present a written report to the Governor and the General
7 Assembly that shall be based on a study of the impact of Public
8 Act 90-739 on the business of soliciting, selling, and shipping
9 alcoholic liquor from outside of this State directly to
10 residents of this State.

11 As part of its report, the Commission shall provide the
12 following information:

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

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

17 (iii) the number of reported violations, the number of
18 cease and desist notices issued by the Commission, the
19 number of notices of violations issued to the Department of
20 Revenue, and the number of notices and complaints of
21 violations to law enforcement officials.

22 (Source: P.A. 99-78, eff. 7-20-15; 99-448, eff. 8-24-15;
23 100-134, eff. 8-18-17; 100-201, eff. 8-18-17.)

24 (235 ILCS 5/3-20 new)

25 Sec. 3-20. State Commission; separation from the

1 Department of Revenue.

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

7 (b) To the extent that Executive Order No. 2003-9
8 transferred personnel to the Department of Revenue from the
9 State Commission, those personnel shall be transferred to the
10 State Commission. The status and rights of such employees under
11 the Personnel Code shall not be affected by the transfer. The
12 rights of the employees and the State of Illinois and its
13 agencies under the Personnel Code and applicable collective
14 bargaining agreements or under any pension, retirement, or
15 annuity plan shall not be affected by this amendatory Act of
16 the 100th General Assembly. To the extent that an employee
17 performs duties for the State Commission and the Department of
18 Revenue itself or any other division or agency within the
19 Department of Revenue, that employee shall be transferred at
20 the Governor's discretion.

21 (c) All books, records, papers, documents, property (real
22 and personal), contracts, causes of action, and pending
23 business pertaining to the powers, duties, rights, and
24 responsibilities transferred by this amendatory Act of the
25 100th General Assembly from the Department of Revenue to the
26 State Commission, including, but not limited to, material in

1 electronic or magnetic format and necessary computer hardware
2 and software, shall be transferred to the State Commission.

3 (d) All unexpended appropriations and balances and other
4 funds available for use by the Department of Revenue to operate
5 the State Commission shall be transferred for use by the State
6 Commission. Unexpended balances so transferred shall be
7 expended only for the purpose for which the appropriations were
8 originally made.

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

13 (f) Whenever reports or notices are now required to be made
14 or given or papers or documents furnished or served by any
15 person to or upon the Department of Revenue in connection with
16 any of the powers, duties, rights, and responsibilities
17 transferred by this amendatory Act of the 100th General
18 Assembly, the same shall be made, given, furnished, or served
19 in the same manner to or upon the State Commission.

20 (g) Any rules of the Department of Revenue that relate to
21 the functions transferred from the State Commission to the
22 Department of Revenue by Executive Order No. 2003-9 that are in
23 full force on the effective date of this amendatory Act of the
24 100th General Assembly shall become the rules of the State
25 Commission. This amendatory Act of the 100th General Assembly
26 does not affect the legality of any such rules in the Illinois

1 Administrative Code.

2 Any proposed rules filed with the Secretary of State by the
3 Department of Revenue that are pending in the rulemaking
4 process on the effective date of this amendatory Act of the
5 100th General Assembly and pertain to the functions transferred
6 from the State Commission to the Department of Revenue by
7 Executive Order No. 2003-9 shall be deemed to have been filed
8 by the State Commission. As soon as practicable hereafter, the
9 State Commission shall revise and clarify the rules transferred
10 to it under this amendatory Act of the 100th General Assembly
11 to reflect the reorganization of powers, duties, rights, and
12 responsibilities affected by this amendatory Act of the 100th
13 General Assembly, using the procedures for recodification of
14 rules available under the Illinois Administrative Procedure
15 Act, except that existing title, part, and section numbering
16 for the affected rules may be retained.

17 (235 ILCS 5/8-5) (from Ch. 43, par. 163a)

18 Sec. 8-5. As soon as practicable after any return is filed
19 but not before 90 days after the return is filed, or any
20 amendments to that return, whichever is later, the Department
21 shall examine such return or amended return and shall correct
22 such return according to its best judgment and information,
23 which return so corrected by the Department shall be prima
24 facie correct and shall be prima facie evidence of the
25 correctness of the amount of tax due, as shown therein. Instead

1 of requiring the licensee to file an amended return, the
2 Department may simply notify the licensee of the correction or
3 corrections it has made. Proof of such correction by the
4 Department, or of the determination of the amount of tax due as
5 provided in Sections 8-4 and 8-10, may be made at any hearing
6 before the Department or in any legal proceeding by a
7 reproduced copy of the Department's record relating thereto in
8 the name of the Department under the certificate of the
9 Director of Revenue. Such reproduced copy shall, without
10 further proof, be admitted into evidence before the Department
11 or in any legal proceeding and shall be prima facie proof of
12 the correctness of the amount of tax due, as shown therein. If
13 the return so corrected by the Department discloses the sale or
14 use, by a licensed manufacturer or importing distributor, of
15 alcoholic liquors as to which the tax provided for in this
16 Article should have been paid, but has not been paid, in excess
17 of the alcoholic liquors reported as being taxable by the
18 licensee, and as to which the proper tax was paid the
19 Department shall notify the licensee that it shall issue the
20 taxpayer a notice of tax liability for the amount of tax
21 claimed by the Department to be due, together with penalties at
22 the rates prescribed by Sections 3-3, 3-5 and 3-6 of the
23 Uniform Penalty and Interest Act, which amount of tax shall be
24 equivalent to the amount of tax which, at the prescribed rate
25 per gallon, should have been paid with respect to the alcoholic
26 liquors disposed of in excess of those reported as being

1 taxable. In a case where no return has been filed, the
2 Department shall determine the amount of tax due according to
3 its best judgment and information and shall issue the taxpayer
4 a notice of tax liability for the amount of tax claimed by the
5 Department to be due as herein provided together with penalties
6 at the rates prescribed by Sections 3-3, 3-5 and 3-6 of the
7 Uniform Penalty and Interest Act. If, in administering the
8 provisions of this Act, a comparison of a licensee's return or
9 returns with the books, records and physical inventories of
10 such licensee discloses a deficiency which cannot be allocated
11 by the Department to a particular month or months, the
12 Department shall issue the taxpayer a notice of tax liability
13 for the amount of tax claimed by the Department to be due for a
14 given period, but without any obligation upon the Department to
15 allocate such deficiency to any particular month or months,
16 together with penalties at the rates prescribed by Sections
17 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act, which
18 amount of tax shall be equivalent to the amount of tax which,
19 at the prescribed rate per gallon, should have been paid with
20 respect to the alcoholic liquors disposed of in excess of those
21 reported being taxable, with the tax thereon having been paid
22 under which circumstances the aforesaid notice of tax liability
23 shall be prima facie correct and shall be prima facie evidence
24 of the correctness of the amount of tax due as shown therein;
25 and proof of such correctness may be made in accordance with,
26 and the admissibility of a reproduced copy of such notice of

1 the Department's notice of tax liability shall be governed by,
2 all the provisions of this Act applicable to corrected returns.

3 If the licensee dies or becomes a person under legal
4 disability at any time before the Department issues its notice
5 of tax liability, such notice shall be issued to the
6 administrator, executor or other legal representative, as
7 such, of the deceased or licensee who is under legal
8 disability.

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

19 If a protest to the notice of tax liability and a request
20 for a hearing thereon is not filed within 60 days after such
21 notice of tax liability, such notice of tax liability shall
22 become final without the necessity of a final assessment being
23 issued and shall be deemed to be a final assessment.

24 In case of failure to pay the tax, or any portion thereof,
25 or any penalty provided for herein, when due, the Department
26 may recover the amount of such tax, or portion thereof, or

1 penalty in a civil action; or if the licensee dies or becomes a
2 person under legal disability, by filing a claim therefor
3 against his or her estate; provided that no such claim shall be
4 filed against the estate of any deceased or of the licensee who
5 is under legal disability for any tax or penalty or portion
6 thereof except in the manner prescribed and within the time
7 limited by the Probate Act of 1975, as amended.

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

11 In addition to any other penalty provided for in this
12 Article, any licensee who fails to pay any tax within the time
13 required by this Article shall be subject to assessment of
14 penalties and interest at rates set forth in the Uniform
15 Penalty and Interest Act.

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

17 Section 99. Effective date. This Act takes effect January
18 1, 2019, except that this Section and changes to Section 3-12
19 of the Liquor Control Act of 1934 take effect upon becoming
20 law."