



Rep. Michael J. Zalewski

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LRB102 15482 BMS 26484 a

1 AMENDMENT TO SENATE BILL 104

2 AMENDMENT NO. _____. Amend Senate Bill 104 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as the COVID-19
5 Pandemic Hospitality Recovery Act.

6 Section 5. The Liquor Control Act of 1934 is amended by
7 changing Sections 6-5 and 6-28.8 as follows:

8 (235 ILCS 5/6-5) (from Ch. 43, par. 122)

9 Sec. 6-5. Except as otherwise provided in this Section, it
10 is unlawful for any person having a retailer's license or any
11 officer, associate, member, representative or agent of such
12 licensee to accept, receive or borrow money, or anything else
13 of value, or accept or receive credit (other than
14 merchandising credit in the ordinary course of business for a
15 period not to exceed 30 days) directly or indirectly from any

1 manufacturer, importing distributor or distributor of
2 alcoholic liquor, or from any person connected with or in any
3 way representing, or from any member of the family of, such
4 manufacturer, importing distributor, distributor or
5 wholesaler, or from any stockholders in any corporation
6 engaged in manufacturing, distributing or wholesaling of such
7 liquor, or from any officer, manager, agent or representative
8 of said manufacturer. Except as provided below, it is unlawful
9 for any manufacturer or distributor or importing distributor
10 to give or lend money or anything of value, or otherwise loan
11 or extend credit (except such merchandising credit) directly
12 or indirectly to any retail licensee or to the manager,
13 representative, agent, officer or director of such licensee. A
14 manufacturer, distributor or importing distributor may furnish
15 free advertising, posters, signs, brochures, hand-outs, or
16 other promotional devices or materials to any unit of
17 government owning or operating any auditorium, exhibition
18 hall, recreation facility or other similar facility holding a
19 retailer's license, provided that the primary purpose of such
20 promotional devices or materials is to promote public events
21 being held at such facility. A unit of government owning or
22 operating such a facility holding a retailer's license may
23 accept such promotional devices or materials designed
24 primarily to promote public events held at the facility. No
25 retail licensee delinquent beyond the 30 day period specified
26 in this Section shall solicit, accept or receive credit,

1 purchase or acquire alcoholic liquors, directly or indirectly
2 from any other licensee, and no manufacturer, distributor or
3 importing distributor shall knowingly grant or extend credit,
4 sell, furnish or supply alcoholic liquors to any such
5 delinquent retail licensee; provided that the purchase price
6 of all beer sold to a retail licensee shall be paid by the
7 retail licensee in cash on or before delivery of the beer, and
8 unless the purchase price payable by a retail licensee for
9 beer sold to him in returnable bottles shall expressly include
10 a charge for the bottles and cases, the retail licensee shall,
11 on or before delivery of such beer, pay the seller in cash a
12 deposit in an amount not less than the deposit required to be
13 paid by the distributor to the brewer; but where the brewer
14 sells direct to the retailer, the deposit shall be an amount no
15 less than that required by the brewer from his own
16 distributors; and provided further, that in no instance shall
17 this deposit be less than 50 cents for each case of beer in
18 pint or smaller bottles and 60 cents for each case of beer in
19 quart or half-gallon bottles; and provided further, that the
20 purchase price of all beer sold to an importing distributor or
21 distributor shall be paid by such importing distributor or
22 distributor in cash on or before the 15th day (Sundays and
23 holidays excepted) after delivery of such beer to such
24 purchaser; and unless the purchase price payable by such
25 importing distributor or distributor for beer sold in
26 returnable bottles and cases shall expressly include a charge

1 for the bottles and cases, such importing distributor or
2 distributor shall, on or before the 15th day (Sundays and
3 holidays excepted) after delivery of such beer to such
4 purchaser, pay the seller in cash a required amount as a
5 deposit to assure the return of such bottles and cases.
6 Nothing herein contained shall prohibit any licensee from
7 crediting or refunding to a purchaser the actual amount of
8 money paid for bottles, cases, kegs or barrels returned by the
9 purchaser to the seller or paid by the purchaser as a deposit
10 on bottles, cases, kegs or barrels, when such containers or
11 packages are returned to the seller. Nothing herein contained
12 shall prohibit any manufacturer, importing distributor or
13 distributor from extending usual and customary credit for
14 alcoholic liquor sold to customers or purchasers who live in
15 or maintain places of business outside of this State when such
16 alcoholic liquor is actually transported and delivered to such
17 points outside of this State.

18 A manufacturer, distributor, or importing distributor may
19 furnish free social media advertising to a retail licensee if
20 the social media advertisement does not contain the retail
21 price of any alcoholic liquor and the social media
22 advertisement complies with any applicable rules or
23 regulations issued by the Alcohol and Tobacco Tax and Trade
24 Bureau of the United States Department of the Treasury. A
25 manufacturer, distributor, or importing distributor may list
26 the names of one or more unaffiliated retailers in the

1 advertisement of alcoholic liquor through social media.
2 Nothing in this Section shall prohibit a retailer from
3 communicating with a manufacturer, distributor, or importing
4 distributor on social media or sharing media on the social
5 media of a manufacturer, distributor, or importing
6 distributor. A retailer may request free social media
7 advertising from a manufacturer, distributor, or importing
8 distributor. Nothing in this Section shall prohibit a
9 manufacturer, distributor, or importing distributor from
10 sharing, reposting, or otherwise forwarding a social media
11 post by a retail licensee, so long as the sharing, reposting,
12 or forwarding of the social media post does not contain the
13 retail price of any alcoholic liquor. No manufacturer,
14 distributor, or importing distributor shall pay or reimburse a
15 retailer, directly or indirectly, for any social media
16 advertising services, except as specifically permitted in this
17 Act. No retailer shall accept any payment or reimbursement,
18 directly or indirectly, for any social media advertising
19 services offered by a manufacturer, distributor, or importing
20 distributor, except as specifically permitted in this Act. For
21 the purposes of this Section, "social media" means a service,
22 platform, or site where users communicate with one another and
23 share media, such as pictures, videos, music, and blogs, with
24 other users free of charge.

25 No right of action shall exist for the collection of any
26 claim based upon credit extended to a distributor, importing

1 distributor or retail licensee contrary to the provisions of
2 this Section.

3 Every manufacturer, importing distributor and distributor
4 shall submit or cause to be submitted, to the State
5 Commission, in triplicate, not later than Thursday of each
6 calendar week, a verified written list of the names and
7 respective addresses of each retail licensee purchasing
8 spirits or wine from such manufacturer, importing distributor
9 or distributor who, on the first business day of that calendar
10 week, was delinquent beyond the above mentioned permissible
11 merchandising credit period of 30 days; or, if such is the
12 fact, a verified written statement that no retail licensee
13 purchasing spirits or wine was then delinquent beyond such
14 permissible merchandising credit period of 30 days.

15 Every manufacturer, importing distributor and distributor
16 shall submit or cause to be submitted, to the State
17 Commission, in triplicate, a verified written list of the
18 names and respective addresses of each previously reported
19 delinquent retail licensee who has cured such delinquency by
20 payment, which list shall be submitted not later than the
21 close of the second full business day following the day such
22 delinquency was so cured.

23 Such written verified reports required to be submitted by
24 this Section shall be posted by the State Commission in each of
25 its offices in places available for public inspection not
26 later than the day following receipt thereof by the

1 Commission. The reports so posted shall constitute notice to
2 every manufacturer, importing distributor and distributor of
3 the information contained therein. Actual notice to
4 manufacturers, importing distributors and distributors of the
5 information contained in any such posted reports, however
6 received, shall also constitute notice of such information.

7 The 30 day merchandising credit period allowed by this
8 Section shall commence with the day immediately following the
9 date of invoice and shall include all successive days
10 including Sundays and holidays to and including the 30th
11 successive day.

12 In addition to other methods allowed by law, payment by
13 check or credit card during the period for which merchandising
14 credit may be extended under the provisions of this Section
15 shall be considered payment. All checks received in payment
16 for alcoholic liquor shall be promptly deposited for
17 collection. A post dated check or a check dishonored on
18 presentation for payment shall not be deemed payment.

19 A credit card payment in dispute by a retailer shall not be
20 deemed payment, and the debt uncured for merchandising credit
21 shall be reported as delinquent. Nothing in this Section shall
22 prevent a distributor, self-distributing manufacturer, or
23 importing distributor from assessing a usual and customary
24 transaction fee representative of the actual finance charges
25 incurred for processing a credit card payment. This
26 transaction fee shall be disclosed on the invoice. It shall be

1 considered unlawful for a distributor, importing distributor,
2 or self-distributing manufacturer to waive finance charges for
3 retailers.

4 A retail licensee shall not be deemed to be delinquent in
5 payment for any alleged sale to him of alcoholic liquor when
6 there exists a bona fide dispute between such retailer and a
7 manufacturer, importing distributor or distributor with
8 respect to the amount of indebtedness existing because of such
9 alleged sale. A retail licensee shall not be deemed to be
10 delinquent under this provision and 11 Ill. Adm. Code 100.90
11 until 30 days after the date on which the region in which the
12 retail licensee is located enters Phase 4 of the Governor's
13 Restore Illinois Plan as issued on May 5, 2020.

14 A delinquent retail licensee who engages in the retail
15 liquor business at 2 or more locations shall be deemed to be
16 delinquent with respect to each such location.

17 The license of any person who violates any provision of
18 this Section shall be subject to suspension or revocation in
19 the manner provided by this Act.

20 If any part or provision of this Article or the
21 application thereof to any person or circumstances shall be
22 adjudged invalid by a court of competent jurisdiction, such
23 judgment shall be confined by its operation to the controversy
24 in which it was mentioned and shall not affect or invalidate
25 the remainder of this Article or the application thereof to
26 any other person or circumstance and to this and the

1 provisions of this Article are declared severable.

2 (Source: P.A. 101-631, eff. 6-2-20.)

3 (235 ILCS 5/6-28.8)

4 (Section scheduled to be repealed on June 2, 2021)

5 Sec. 6-28.8. Delivery and carry out of mixed drinks
6 permitted.

7 (a) In this Section:

8 "Cocktail" or "mixed drink" means any beverage obtained by
9 combining ingredients alcoholic in nature, whether brewed,
10 fermented, or distilled, with ingredients non-alcoholic in
11 nature, such as fruit juice, lemonade, cream, or a carbonated
12 beverage.

13 "Original container" means, for the purposes of this
14 Section only, a container that is (i) filled, sealed, and
15 secured by a retail licensee's employee at the retail
16 licensee's location with a tamper-evident lid or cap or (ii)
17 filled and labeled by the manufacturer and secured by the
18 manufacturer's original unbroken seal.

19 "Sealed container" means a rigid container that contains a
20 mixed drink or a single serving of wine, is new, has never been
21 used, has a secured lid or cap designed to prevent consumption
22 without removal of the lid or cap, and is tamper-evident.

23 "Sealed container" includes a manufacturer's original
24 container as defined in this subsection. "Sealed container"

25 does not include a container with a lid with sipping holes or

1 openings for straws or a container made of plastic, paper, or
2 polystyrene foam.

3 "Tamper-evident" means a lid or cap that has been sealed
4 with tamper-evident covers, including, but not limited to, wax
5 dip or heat shrink wrap.

6 (b) A cocktail, ~~or mixed drink,~~ or single serving of wine
7 placed in a sealed container ~~by a retail licensee at the retail~~
8 ~~licensee's location~~ may be transferred and sold for
9 off-premises consumption if the following requirements are
10 met:

11 (1) the cocktail, mixed drink, or single serving of
12 wine is transferred within the licensed premises, by a
13 curbside pickup, or by delivery by an employee of the
14 retail licensee who:

15 (A) has been trained in accordance with Section
16 6-27.1 at the time of the sale;

17 (B) is at least 21 years of age; and

18 (C) upon delivery, verifies the age of the person
19 to whom the cocktail, mixed drink, or single serving
20 of wine is being delivered;

21 (2) if the employee delivering the cocktail, mixed
22 drink, or single serving of wine is not able to safely
23 verify a person's age or level of intoxication upon
24 delivery, the employee shall cancel the sale of alcohol
25 and return the product to the retail license holder;

26 (3) the sealed container is placed in the trunk of the

1 vehicle or if there is no trunk, in the vehicle's rear
2 compartment that is not readily accessible to the
3 passenger area;

4 (4) a ~~the sealed~~ container filled and sealed at a
5 retail licensee's location shall be affixed with a label
6 or tag that contains the following information:

7 (A) the cocktail or mixed drink ingredients, type,
8 and name of the alcohol;

9 (B) the name, license number, and address of the
10 retail licensee that ~~filled the original container and~~
11 sold the product;

12 (C) the volume of the cocktail, ~~or mixed drink,~~ or
13 single serving of wine in the sealed container; and

14 (D) the sealed container was filled less than 7
15 days before the date of sale; ~~and.~~

16 (5) a manufacturer's original container shall be
17 affixed with a label or tag that contains the name,
18 license number, and address of the retail licensee that
19 sold the product.

20 (c) Third-party delivery services are not permitted to
21 deliver cocktails and mixed drinks under this Section.

22 (d) If there is an executive order of the Governor in
23 effect during a disaster, the employee delivering the mixed
24 drink, ~~or cocktail,~~ or single serving of wine must comply with
25 any requirements of that executive order, including, but not
26 limited to, wearing gloves and a mask and maintaining

1 distancing requirements when interacting with the public.

2 (e) Delivery or carry out of a cocktail, ~~or~~ mixed drink, or
3 single serving of wine is prohibited if:

4 (1) a third party delivers the cocktail or mixed
5 drink;

6 (2) a container of a mixed drink, ~~or~~ cocktail, or
7 single serving of wine is not tamper-evident and sealed;

8 (3) a container of a mixed drink, ~~or~~ cocktail, or
9 single serving of wine is transported in the passenger
10 area of a vehicle;

11 (4) a mixed drink, ~~or~~ cocktail, or single serving of
12 wine is delivered by a person or to a person who is under
13 the age of 21; or

14 (5) the person delivering a mixed drink, ~~or~~ cocktail,
15 or single serving of wine fails to verify the age of the
16 person to whom the mixed drink or cocktail is being
17 delivered.

18 (f) Violations of this Section shall be subject to any
19 applicable penalties, including, but not limited to, the
20 penalties specified under Section 11-502 of the Illinois
21 Vehicle Code.

22 (f-5) This Section is not intended to prohibit or preempt
23 the ability of a brew pub, tap room, or distilling pub to
24 continue to temporarily deliver alcoholic liquor pursuant to
25 guidance issued by the State Commission on March 19, 2020
26 entitled "Illinois Liquor Control Commission, COVID-19 Related

1 Actions, Guidance on Temporary Delivery of Alcoholic Liquor".
2 This Section shall only grant authorization to holders of
3 State of Illinois retail liquor licenses but not to licensees
4 that simultaneously hold any licensure or privilege to
5 manufacture alcoholic liquors within or outside of the State
6 of Illinois.

7 (g) This Section is not a denial or limitation of home rule
8 powers and functions under Section 6 of Article VII of the
9 Illinois Constitution.

10 (h) This Section is repealed on January 1, 2025 ~~one year~~
11 ~~after the effective date of this amendatory Act of the 101st~~
12 ~~General Assembly.~~

13 (Source: P.A. 101-631, eff. 6-2-20.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law."