

SB1927



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1927

Introduced 2/26/2021, by Sen. Rachelle Crowe

SYNOPSIS AS INTRODUCED:

235 ILCS 5/3-12

Amends the Liquor Control Act of 1934. Provides that a person licensed to make wine under the laws of another state who has a winery shipper's license and annually produces less than 250,000 gallons (instead of 25,000 gallons) of wine or a person who has a first-class or second-class wine manufacturer's license, a first-class or second-class wine-maker's license, or a limited wine manufacturer's license and annually produces less than 250,000 gallons (instead of 25,000 gallons) of wine may make application to the State Commission for a self-distribution exemption to allow the sale of not more than 50,000 gallons (instead of 5,000 gallons) of the exemption holder's wine to retail licensees per year. Makes conforming changes. Effective immediately.

LRB102 16129 RPS 21505 b

A BILL FOR

1 AN ACT concerning liquor.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Liquor Control Act of 1934 is amended by
5 changing Section 3-12 as follows:

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

1 days prior to such violation. Except in the case of an
2 action taken pursuant to a violation of Section 6-3, 6-5,
3 or 6-9, any action by the State Commission to suspend or
4 revoke a licensee's license may be limited to the license
5 for the specific premises where the violation occurred. An
6 action for a violation of this Act shall be commenced by
7 the State Commission within 2 years after the date the
8 State Commission becomes aware of the violation.

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

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

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

1 \$20,000. The maximum penalty that may be imposed on a
2 licensee for selling a bottle of alcoholic liquor with a
3 foreign object in it or serving from a bottle of alcoholic
4 liquor with a foreign object in it shall be the
5 destruction of that bottle of alcoholic liquor for the
6 first 10 bottles so sold or served from by the licensee.
7 For the eleventh bottle of alcoholic liquor and for each
8 third bottle thereafter sold or served from by the
9 licensee with a foreign object in it, the maximum penalty
10 that may be imposed on the licensee is the destruction of
11 the bottle of alcoholic liquor and a fine of up to \$50.

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

21 (2) To adopt such rules and regulations consistent
22 with the provisions of this Act which shall be necessary
23 to carry on its functions and duties to the end that the
24 health, safety and welfare of the People of the State of
25 Illinois shall be protected and temperance in the
26 consumption of alcoholic liquors shall be fostered and

1 promoted and to distribute copies of such rules and
2 regulations to all licensees affected thereby.

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

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

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

20 (5.1) Upon receipt of a complaint or upon having
21 knowledge that any person is engaged in business as a
22 manufacturer, importing distributor, distributor, or
23 retailer without a license or valid license, to conduct an
24 investigation. If, after conducting an investigation, the
25 State Commission is satisfied that the alleged conduct
26 occurred or is occurring, it may issue a cease and desist

1 notice as provided in this Act, impose civil penalties as
2 provided in this Act, notify the local liquor authority,
3 or file a complaint with the State's Attorney's Office of
4 the county where the incident occurred or the Attorney
5 General.

6 (5.2) Upon receipt of a complaint or upon having
7 knowledge that any person is shipping alcoholic liquor
8 into this State from a point outside of this State if the
9 shipment is in violation of this Act, to conduct an
10 investigation. If, after conducting an investigation, the
11 State Commission is satisfied that the alleged conduct
12 occurred or is occurring, it may issue a cease and desist
13 notice as provided in this Act, impose civil penalties as
14 provided in this Act, notify the foreign jurisdiction, or
15 file a complaint with the State's Attorney's Office of the
16 county where the incident occurred or the Attorney
17 General.

18 (5.3) To receive complaints from licensees, local
19 officials, law enforcement agencies, organizations, and
20 persons stating that any licensee has been or is violating
21 any provision of this Act or the rules and regulations
22 issued pursuant to this Act. Such complaints shall be in
23 writing, signed and sworn to by the person making the
24 complaint, and shall state with specificity the facts in
25 relation to the alleged violation. If the State Commission
26 has reasonable grounds to believe that the complaint

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

7 (5.4) To make arrests and issue notices of civil
8 violations where necessary for the enforcement of this
9 Act.

10 (5.5) To investigate any and all unlicensed activity.

11 (5.6) To impose civil penalties or fines to any person
12 who, without holding a valid license, engages in conduct
13 that requires a license pursuant to this Act, in an amount
14 not to exceed \$20,000 for each offense as determined by
15 the State Commission. A civil penalty shall be assessed by
16 the State Commission after a hearing is held in accordance
17 with the provisions set forth in this Act regarding the
18 provision of a hearing for the revocation or suspension of
19 a license.

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

26 (7) The State Commission shall establish uniform

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

25 (8) In the conduct of any hearing authorized to be
26 held by the State Commission, to appoint, at the

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

14 Any circuit court may, by order duly entered, require
15 the attendance of witnesses and the production of relevant
16 books subpoenaed by the State Commission and the court may
17 compel obedience to its order by proceedings for contempt.

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

25 (10) To adopt such rules and regulations consistent
26 with the provisions of this Act which shall be necessary

1 for the control, sale, or disposition of alcoholic liquor
2 damaged as a result of an accident, wreck, flood, fire, or
3 other similar occurrence.

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

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

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

20 (13) (Blank).

21 (14) On or before April 30, 2008 and every 2 years
22 thereafter, the State Commission shall present a written
23 report to the Governor and the General Assembly that shall
24 be based on a study of the impact of Public Act 95-634 on
25 the business of soliciting, selling, and shipping wine
26 from inside and outside of this State directly to

1 residents of this State. As part of its report, the State
2 Commission shall provide all of the following information:

3 (A) The amount of State excise and sales tax
4 revenues generated.

5 (B) The amount of licensing fees received.

6 (C) The number of cases of wine shipped from
7 inside and outside of this State directly to residents
8 of this State.

9 (D) The number of alcohol compliance operations
10 conducted.

11 (E) The number of winery shipper's licenses
12 issued.

13 (F) The number of each of the following: reported
14 violations; cease and desist notices issued by the
15 Commission; notices of violations issued by the
16 Commission and to the Department of Revenue; and
17 notices and complaints of violations to law
18 enforcement officials, including, without limitation,
19 the Illinois Attorney General and the U.S. Department
20 of Treasury's Alcohol and Tobacco Tax and Trade
21 Bureau.

22 (15) As a means to reduce the underage consumption of
23 alcoholic liquors, the State Commission shall conduct
24 alcohol compliance operations to investigate whether
25 businesses that are soliciting, selling, and shipping wine
26 from inside or outside of this State directly to residents

1 of this State are licensed by this State or are selling or
2 attempting to sell wine to persons under 21 years of age in
3 violation of this Act.

4 (16) The State Commission shall, in addition to
5 notifying any appropriate law enforcement agency, submit
6 notices of complaints or violations of Sections 6-29 and
7 6-29.1 by persons who do not hold a winery shipper's
8 license under this Act to the Illinois Attorney General
9 and to the U.S. Department of Treasury's Alcohol and
10 Tobacco Tax and Trade Bureau.

11 (17) (A) A person licensed to make wine under the laws
12 of another state who has a winery shipper's license under
13 this Act and annually produces less than 250,000 ~~25,000~~
14 gallons of wine or a person who has a first-class or
15 second-class wine manufacturer's license, a first-class or
16 second-class wine-maker's license, or a limited wine
17 manufacturer's license under this Act and annually
18 produces less than 250,000 ~~25,000~~ gallons of wine may make
19 application to the State Commission for a
20 self-distribution exemption to allow the sale of not more
21 than 50,000 ~~5,000~~ gallons of the exemption holder's wine
22 to retail licensees per year.

23 (B) In the application, which shall be sworn under
24 penalty of perjury, such person shall state (1) the date
25 it was established; (2) its volume of production and sales
26 for each year since its establishment; (3) its efforts to

1 establish distributor relationships; (4) that a
2 self-distribution exemption is necessary to facilitate the
3 marketing of its wine; and (5) that it will comply with the
4 liquor and revenue laws of the United States, this State,
5 and any other state where it is licensed.

6 (C) The State Commission shall approve the application
7 for a self-distribution exemption if such person: (1) is
8 in compliance with State revenue and liquor laws; (2) is
9 not a member of any affiliated group that produces more
10 than 250,000 ~~25,000~~ gallons of wine per annum or produces
11 any other alcoholic liquor; (3) will not annually produce
12 for sale more than 250,000 ~~25,000~~ gallons of wine; and (4)
13 will not annually sell more than 50,000 ~~5,000~~ gallons of
14 its wine to retail licensees.

15 (D) A self-distribution exemption holder shall
16 annually certify to the State Commission its production of
17 wine in the previous 12 months and its anticipated
18 production and sales for the next 12 months. The State
19 Commission may fine, suspend, or revoke a
20 self-distribution exemption after a hearing if it finds
21 that the exemption holder has made a material
22 misrepresentation in its application, violated a revenue
23 or liquor law of Illinois, exceeded production of 250,000
24 ~~25,000~~ gallons of wine in any calendar year, or become
25 part of an affiliated group producing more than 250,000
26 ~~25,000~~ gallons of wine or any other alcoholic liquor.

1 (E) Except in hearings for violations of this Act or
2 Public Act 95-634 or a bona fide investigation by duly
3 sworn law enforcement officials, the State Commission, or
4 its agents, the State Commission shall maintain the
5 production and sales information of a self-distribution
6 exemption holder as confidential and shall not release
7 such information to any person.

8 (F) The State Commission shall issue regulations
9 governing self-distribution exemptions consistent with
10 this Section and this Act.

11 (G) Nothing in this paragraph (17) shall prohibit a
12 self-distribution exemption holder from entering into or
13 simultaneously having a distribution agreement with a
14 licensed Illinois distributor.

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

1 (18)(A) A class 1 brewer licensee, who must also be
2 either a licensed brewer or licensed non-resident dealer
3 and annually manufacture less than 930,000 gallons of
4 beer, may make application to the State Commission for a
5 self-distribution exemption to allow the sale of not more
6 than 232,500 gallons of the exemption holder's beer per
7 year to retail licensees and to brewers, class 1 brewers,
8 and class 2 brewers that, pursuant to subsection (e) of
9 Section 6-4 of this Act, sell beer, cider, or both beer and
10 cider to non-licensees at their breweries.

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

21 (C) Any application submitted shall be posted on the
22 State Commission's website at least 45 days prior to
23 action by the State Commission. The State Commission shall
24 approve the application for a self-distribution exemption
25 if the class 1 brewer licensee: (1) is in compliance with
26 the State, revenue, and alcoholic beverage laws; (2) is

1 not a member of any affiliated group that manufactures
2 more than 930,000 gallons of beer per annum or produces
3 any other alcoholic beverages; (3) shall not annually
4 manufacture for sale more than 930,000 gallons of beer;
5 (4) shall not annually sell more than 232,500 gallons of
6 its beer to retail licensees or to brewers, class 1
7 brewers, and class 2 brewers that, pursuant to subsection
8 (e) of Section 6-4 of this Act, sell beer, cider, or both
9 beer and cider to non-licensees at their breweries; and
10 (5) has relinquished any brew pub license held by the
11 licensee, including any ownership interest it held in the
12 licensed brew pub.

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

26 (E) The State Commission shall issue rules and

1 regulations governing self-distribution exemptions
2 consistent with this Act.

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

13 (G) It is the intent of this paragraph (18) to promote
14 and continue orderly markets. The General Assembly finds
15 that in order to preserve Illinois' regulatory
16 distribution system, it is necessary to create an
17 exception for smaller manufacturers in order to afford and
18 allow such smaller manufacturers of beer access to the
19 marketplace in order to develop a customer base without
20 impairing the integrity of the 3-tier system.

21 (19) (A) A class 1 craft distiller licensee or a
22 non-resident dealer who manufactures less than 50,000
23 gallons of distilled spirits per year may make application
24 to the State Commission for a self-distribution exemption
25 to allow the sale of not more than 5,000 gallons of the
26 exemption holder's spirits to retail licensees per year.

1 (B) In the application, which shall be sworn under
2 penalty of perjury, the class 1 craft distiller licensee
3 or non-resident dealer shall state (1) the date it was
4 established; (2) its volume of spirits manufactured and
5 sold for each year since its establishment; (3) its
6 efforts to establish distributor relationships; (4) that a
7 self-distribution exemption is necessary to facilitate the
8 marketing of its spirits; and (5) that it will comply with
9 the alcoholic beverage and revenue laws of the United
10 States, this State, and any other state where it is
11 licensed.

12 (C) Any application submitted shall be posted on the
13 State Commission's website at least 45 days prior to
14 action by the State Commission. The State Commission shall
15 approve the application for a self-distribution exemption
16 if the applicant: (1) is in compliance with State revenue
17 and alcoholic beverage laws; (2) is not a member of any
18 affiliated group that produces more than 50,000 gallons of
19 spirits per annum or produces any other alcoholic liquor;
20 (3) does not annually manufacture for sale more than
21 50,000 gallons of spirits; and (4) does not annually sell
22 more than 5,000 gallons of its spirits to retail
23 licensees.

24 (D) A self-distribution exemption holder shall
25 annually certify to the State Commission its manufacture
26 of spirits during the previous 12 months and its

1 anticipated manufacture and sales of spirits for the next
2 12 months. The State Commission may fine, suspend, or
3 revoke a self-distribution exemption after a hearing if it
4 finds that the exemption holder has made a material
5 misrepresentation in its application, violated a revenue
6 or alcoholic beverage law of Illinois, exceeded the
7 manufacture of 50,000 gallons of spirits in any calendar
8 year, or has become part of an affiliated group
9 manufacturing more than 50,000 gallons of spirits or any
10 other alcoholic beverage.

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

13 (F) Nothing in this paragraph (19) 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 (G) It is the intent of this paragraph (19) to promote
18 and continue orderly markets. The General Assembly finds
19 that in order to preserve Illinois' regulatory
20 distribution system, it is necessary to create an
21 exception for smaller manufacturers in order to afford and
22 allow such smaller manufacturers of spirits access to the
23 marketplace in order to develop a customer base without
24 impairing the integrity of the 3-tier system.

25 (b) On or before April 30, 1999, the Commission shall
26 present a written report to the Governor and the General

1 Assembly that shall be based on a study of the impact of Public
2 Act 90-739 on the business of soliciting, selling, and
3 shipping alcoholic liquor from outside of this State directly
4 to residents of this State.

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

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

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

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

16 (Source: P.A. 100-134, eff. 8-18-17; 100-201, eff. 8-18-17;
17 100-816, eff. 8-13-18; 100-1012, eff. 8-21-18; 100-1050, eff.
18 8-23-18; 101-37, eff. 7-3-19; 101-81, eff. 7-12-19; 101-482,
19 eff. 8-23-19; revised 9-20-19.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.