



Rep. Curtis J. Tarver, II

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10300HB2502ham001

LRB103 28642 RPS 59665 a

1 AMENDMENT TO HOUSE BILL 2502

2 AMENDMENT NO. _____. Amend House Bill 2502 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Liquor Control Act of 1934 is amended by
5 changing Sections 6-6.3 and 6-35 as follows:

6 (235 ILCS 5/6-6.3)

7 Sec. 6-6.3. Non-alcoholic merchandise.

8 (a) Nothing in this Act shall authorize the Illinois
9 Liquor Control Commission to regulate or exercise jurisdiction
10 over any action, transaction, and business of manufacturers,
11 distributors, or retailers, or any parent or subsidiary
12 thereof, engaged in any transaction involving the furnishing,
13 selling, or offering for sale of non-alcoholic merchandise by
14 manufacturers, distributors, or retailers, or any parent or
15 subsidiary thereof, unless the transaction involves expressed
16 or implied agreements or understandings prohibited by this

1 Act.

2 (b) Non-alcoholic merchandise may be sold by a
3 manufacturer class license holder, non-resident dealer,
4 foreign importer, importing distributor, or distributor, or
5 any parent or subsidiary thereof, to a retail licensee if:

6 (1) the manufacturer class license holder,
7 non-resident dealer, foreign importer, importing
8 distributor, or distributor, or any parent or subsidiary
9 thereof, is also in business as a bona fide producer or
10 vendor of other merchandise;

11 (2) the merchandise is sold at its fair market value;

12 (3) the non-alcoholic merchandise is not sold in
13 combination with alcoholic liquor or conditioned on the
14 sale of alcoholic liquor;

15 (4) the manufacturer class license holder's,
16 non-resident dealer's, foreign importer's, importing
17 distributor's, or distributor's, or their parent's or
18 subsidiary's, acquisition or production costs of the
19 non-alcoholic merchandise appear on the manufacturer class
20 license holder's, non-resident dealer's, foreign
21 importer's, importing distributor's, or distributor's
22 purchase invoices or other records;

23 (5) the individual selling prices of the non-alcoholic
24 merchandise and alcoholic liquor sold in a single
25 transaction can be determined from commercial documents
26 covering the sales transaction if non-alcoholic

1 merchandise is sold in the same transaction as alcoholic
2 liquor; and

3 (6) the price is collected by the manufacturer class
4 license holder, non-resident dealer, foreign importer, or
5 distributor, or any parent or subsidiary thereof, within
6 30 days of the date of the sale, unless other terms are
7 established in writing between the parties.

8 (c) The State Commission may not prohibit the sale of
9 non-alcoholic merchandise if it is sold in the manner in which
10 the non-alcoholic merchandise is sold by a manufacturer or
11 distributor that is not licensed by the State Commission;
12 provided, however, that all invoices for non-alcoholic
13 merchandise sold by a manufacturer class license holder,
14 non-resident dealer, foreign importer, importing distributor,
15 or distributor, or any parent or subsidiary thereof, that is
16 also in business as a bona fide producer or vendor of other
17 merchandise must be in compliance with the books and records
18 requirements of 11 Ill. Adm. Code 100.130. If the
19 non-alcoholic merchandise is sold on the same invoice as an
20 alcoholic liquor product, the 30-day merchandising credit
21 provisions of Section 6-5 of this Act shall apply to the entire
22 transaction, including the non-alcoholic merchandise.

23 (d) Except as provided in subsection (f), a manufacturer
24 class license holder, non-resident dealer, foreign importer,
25 importing distributor, or distributor, or any parent or
26 subsidiary thereof, that is also in business as a bona fide

1 producer or vendor of non-alcoholic merchandise shall not
2 condition the sale of its alcoholic liquor on the sale of its
3 non-alcoholic merchandise and shall not combine the sale of
4 its alcoholic liquor with the sale of its non-alcoholic
5 merchandise. A manufacturer class license holder, non-resident
6 dealer, foreign importer, importing distributor, or
7 distributor, or any parent or subsidiary thereof, that is also
8 in business as a bona fide producer or vendor of non-alcoholic
9 merchandise may sell, market, and promote non-alcoholic
10 merchandise in the same manner in which the non-alcoholic
11 merchandise is sold, marketed, or promoted by a manufacturer
12 or distributor not licensed by the State Commission.
13 Notwithstanding any provision of this Section to the contrary,
14 the bona fide producer or vendor of non-alcoholic merchandise
15 shall not provide something of value to a retailer for sale of
16 non-alcoholic merchandise if the of-value item or items are a
17 subterfuge for providing something of value for the sale of
18 alcoholic liquor. The State Commission shall have the
19 authority to examine records of a manufacturer class license
20 holder, non-resident dealer, foreign importer, importing
21 distributor, or distributor, or any parent or subsidiary
22 thereof, for the purpose of examining all of-value
23 transactions between such entity and a retailer.

24 (e) Notwithstanding the prohibited furnishing or providing
25 of fixtures, equipment, and furnishings to retailers as
26 contained in Section 6-6 of this Act, the act of a manufacturer

1 class license holder, non-resident dealer, foreign importer,
2 importing distributor, or distributor furnishing or providing
3 retailers with fixtures, equipment, or furnishings for the
4 limited purpose of storing, servicing, displaying,
5 advertising, furnishing, selling, or aiding in the sale of
6 non-alcoholic merchandise is permitted, only to the extent
7 allowed by this Section, and such fixtures, equipment, and
8 furnishings shall not be used by the retail licensee to store,
9 service, display, advertise, furnish, sell, or aid in the sale
10 of alcoholic liquors. All such fixtures, equipment, or
11 furnishings shall be identified by the retail licensee as
12 being furnished by a manufacturer class license holder,
13 non-resident dealer, foreign importer, importing distributor,
14 or distributor licensed by the State Commission and, if
15 purchased by the retail licensee and sold on the same invoice
16 as alcoholic liquor products, the price must be collected by
17 the manufacturer class license holder, non-resident dealer,
18 foreign importer, importing distributor, or distributor
19 selling the same within 30 days of the date of sale.

20 (f) Notwithstanding any provision of this Act to the
21 contrary, a manufacturer class license holder, non-resident
22 dealer, foreign importer, importing distributor, or
23 distributor may package and distribute alcoholic liquor in
24 combination with other non-alcoholic merchandise products if
25 the alcoholic liquor and non-alcoholic merchandise was
26 originally packaged together for ultimate sale to consumers by

1 the manufacturer or agent of the manufacturer as originally
2 packaged by the manufacturer or agent of the manufacturer for
3 ultimate sale to consumers.

4 (Source: P.A. 99-282, eff. 8-5-15.)

5 (235 ILCS 5/6-35)

6 Sec. 6-35. Alcopops.

7 (a) For purposes of this Section: 7

8 "Alcopop ~~alco-pop~~" means a flavored alcoholic beverage or
9 flavored malt beverage that includes (i) a malt beverage
10 containing a malt base or beer and added natural or artificial
11 blending material, such as fruit juices, flavors, flavorings,
12 colorings, or preservatives where the beverage constitutes
13 0.5% or more of alcohol by volume ~~such blending material~~
14 ~~constitutes .5% or more of the alcohol by volume contained in~~
15 ~~the finished beverage~~; (ii) a beverage containing wine and
16 more than 15% added natural or artificial blending material,
17 such as fruit juices, flavors, flavorings, or adjuncts, water
18 (plain, carbonated, or sparkling), colorings, or
19 preservatives; (iii) a beverage containing distilled alcohol
20 and added natural or artificial blending material, such as
21 fruit juices, flavors, flavorings, colorings, or
22 preservatives; or (iv) an alcohol malt beverage containing
23 caffeine, guarana, taurine, or ginseng, where the beverage
24 constitutes 0.5% or more of alcohol by volume.

25 "Immediately adjacent" means directly touching or

1 immediately bordering one another from above, below, or the
2 side. "Immediately adjacent" does not include a separate
3 aisle.

4 "Retail sales floor" means the part of a retailer's
5 premises that contains goods on display that are freely
6 accessible to the consumer

7 (b) No entity may advertise, promote, or market any
8 alcopop beverages toward children. Advertise, promote, or
9 market includes, but is not limited to the following:

10 (1) the use of cartoons and youth-orientated photos in
11 advertising, promotion, packaging, or labeling of alcohol
12 products;

13 (2) sponsorships of athletic events where the intended
14 audience is primarily children;

15 (3) billboards advertising alcopops, as defined in
16 items (i), (ii), and (iii) of subsection (a) of this
17 Section, placed within 500 feet of schools, public parks,
18 amusement parks, and places of worship; and

19 (4) the display of any alcopop beverage in any
20 videogame, theater production, or other live performances
21 where the intended audience is primarily children.

22 (b-5) No retail establishment with a retail sales floor
23 that exceeds 2,500 square feet shall display alcopops
24 immediately adjacent to soft drinks, fruit juices, bottled
25 water, candy, or snack foods portraying cartoons or
26 youth-oriented photos.

1 (b-10) Any retail establishment with a retail sales floor
2 that is equal to or less than 2,500 square feet shall either:

3 (1) not display alcopops immediately adjacent to soft
4 drinks, fruit juices, bottled water, candy, or snack foods
5 portraying cartoons or youth-oriented photos; or

6 (2) equip any such display that contains alcopops and
7 is immediately adjacent to soft drinks, fruit juices,
8 bottled water, candy, or snack foods portraying cartoons
9 or youth-oriented photos with signage that is clearly
10 visible to consumers, is not less than 8.5 x 11 inches, and
11 states the following: "This product is an alcoholic
12 beverage available only to persons who are 21 years of age
13 or older.". Such sign may be provided by the State
14 Commission or by the licensee.

15 (b-15) Subsections (b-5) and (b-10) do not apply to a
16 shelf, aisle, display, or display area in which the primary
17 items for sale are alcoholic liquors or in an area in which
18 persons under the age of 21 are prohibited from entering
19 without a parent or legal guardian.

20 (c) No entity shall sell for consumption an alcohol malt
21 beverage containing caffeine, guarana, taurine, or ginseng,
22 where the beverage constitutes 0.5% or more of alcohol by
23 volume, unless individual containers of the beverage have
24 imprinted on each individual container the following:

25 (1) the words "contains alcohol"; and

26 (2) the alcohol content of the beverage.

1 (d) Any person who violates this Section is guilty of a
2 business offense and shall be fined \$500 for a first offense
3 and \$1,000 for a second or subsequent offense.

4 (e) Nothing in this Section shall be construed to be
5 inconsistent with any other provision of this Section or any
6 other State or federal laws, rules, or regulations regarding
7 the labeling of alcoholic beverages.

8 (Source: P.A. 95-618, eff. 6-1-08; 95-860, eff. 1-1-09.)".