



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2433

Introduced 2/10/2023, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

235 ILCS 5/6-6.3
235 ILCS 5/6-35

Amends the Liquor Control Act of 1934. Makes changes in the definition of "alcopop". Prohibits the display of any alcopop beverage in premises licensed to sell alcoholic liquor at retail adjacent to soft drinks, fruit juices, bottled water, candy, or snack foods portraying cartoons or youth-orientated photos. Adds parents or subsidiaries of certain licensees to provisions concerning non-alcoholic merchandise. Provides that the bona fide producer or vendor of non-alcoholic merchandise shall not provide something of value to a retailer for sale of non-alcoholic merchandise if the of-value item or items are a subterfuge for providing something of value for the sale of alcoholic liquor. Provides that the Illinois Liquor Control Commission shall have the authority to examine records of a manufacturer class license holder, non-resident dealer, foreign importer, importing distributor, or distributor, or any parent or subsidiary thereof, for the purpose of examining all of-value transactions between such entity and a retailer.

LRB103 28640 RPS 55021 b

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 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
17 Act.

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

22 (1) the manufacturer class license holder,
23 non-resident dealer, foreign importer, importing

1 distributor, or distributor, or any parent or subsidiary
2 thereof, is also in business as a bona fide producer or
3 vendor of other merchandise;

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

5 (3) the non-alcoholic merchandise is not sold in
6 combination with alcoholic liquor or conditioned on the
7 sale of alcoholic liquor;

8 (4) the manufacturer class license holder's,
9 non-resident dealer's, foreign importer's, importing
10 distributor's, or distributor's, or their parent's or
11 subsidiary's, acquisition or production costs of the
12 non-alcoholic merchandise appear on the manufacturer class
13 license holder's, non-resident dealer's, foreign
14 importer's, importing distributor's, or distributor's
15 purchase invoices or other records;

16 (5) the individual selling prices of the non-alcoholic
17 merchandise and alcoholic liquor sold in a single
18 transaction can be determined from commercial documents
19 covering the sales transaction if non-alcoholic
20 merchandise is sold in the same transaction as alcoholic
21 liquor; and

22 (6) the price is collected by the manufacturer class
23 license holder, non-resident dealer, foreign importer, or
24 distributor, or any parent or subsidiary thereof, within
25 30 days of the date of the sale, unless other terms are
26 established in writing between the parties.

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

16 (d) Except as provided in subsection (f), a manufacturer
17 class license holder, non-resident dealer, foreign importer,
18 importing distributor, or distributor, or any parent or
19 subsidiary thereof, that is also in business as a bona fide
20 producer or vendor of non-alcoholic merchandise shall not
21 condition the sale of its alcoholic liquor on the sale of its
22 non-alcoholic merchandise and shall not combine the sale of
23 its alcoholic liquor with the sale of its non-alcoholic
24 merchandise. A manufacturer class license holder, non-resident
25 dealer, foreign importer, importing distributor, or
26 distributor, or any parent or subsidiary thereof, that is also

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

17 (e) Notwithstanding the prohibited furnishing or providing
18 of fixtures, equipment, and furnishings to retailers as
19 contained in Section 6-6 of this Act, the act of a manufacturer
20 class license holder, non-resident dealer, foreign importer,
21 importing distributor, or distributor furnishing or providing
22 retailers with fixtures, equipment, or furnishings for the
23 limited purpose of storing, servicing, displaying,
24 advertising, furnishing, selling, or aiding in the sale of
25 non-alcoholic merchandise is permitted, only to the extent
26 allowed by this Section, and such fixtures, equipment, and

1 furnishings shall not be used by the retail licensee to store,
2 service, display, advertise, furnish, sell, or aid in the sale
3 of alcoholic liquors. All such fixtures, equipment, or
4 furnishings shall be identified by the retail licensee as
5 being furnished by a manufacturer class license holder,
6 non-resident dealer, foreign importer, importing distributor,
7 or distributor licensed by the State Commission and, if
8 purchased by the retail licensee and sold on the same invoice
9 as alcoholic liquor products, the price must be collected by
10 the manufacturer class license holder, non-resident dealer,
11 foreign importer, importing distributor, or distributor
12 selling the same within 30 days of the date of sale.

13 (f) Notwithstanding any provision of this Act to the
14 contrary, a manufacturer class license holder, non-resident
15 dealer, foreign importer, importing distributor, or
16 distributor may package and distribute alcoholic liquor in
17 combination with other non-alcoholic merchandise products if
18 the alcoholic liquor and non-alcoholic merchandise was
19 originally packaged together for ultimate sale to consumers by
20 the manufacturer or agent of the manufacturer as originally
21 packaged by the manufacturer or agent of the manufacturer for
22 ultimate sale to consumers.

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

24 (235 ILCS 5/6-35)

25 Sec. 6-35. Alcopops.

1 (a) For purposes of this Section, "alcopop" means a
2 flavored alcoholic beverage or flavored malt beverage that
3 includes (i) a malt beverage containing a malt base or beer and
4 added natural or artificial blending material, such as fruit
5 juices, flavors, flavorings, colorings, or preservatives ~~where~~
6 ~~such blending material constitutes .5% or more of the alcohol~~
7 ~~by volume contained in the finished beverage;~~ (ii) a beverage
8 containing wine and more than 15% added natural or artificial
9 blending material, such as fruit juices, flavors, flavorings,
10 or adjuncts, water (plain, carbonated, or sparkling),
11 colorings, or preservatives; (iii) a beverage containing
12 distilled alcohol and added natural or artificial blending
13 material, such as fruit juices, flavors, flavorings,
14 colorings, or preservatives; or (iv) an alcohol malt beverage
15 containing caffeine, guarana, taurine, or ginseng, where the
16 beverage constitutes 0.5% or more of alcohol by volume.

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

20 (1) the use of cartoons and youth-orientated photos in
21 advertising, promotion, packaging, or labeling of alcohol
22 products;

23 (2) sponsorships of athletic events where the intended
24 audience is primarily children;

25 (3) billboards advertising alcopops, as defined in
26 items (i), (ii), and (iii) of subsection (a) of this

1 Section, placed within 500 feet of schools, public parks,
2 amusement parks, and places of worship; ~~and~~

3 (4) the display of any alcopop beverage in any
4 videogame, theater production, or other live performances
5 where the intended audience is primarily children; ~~and.~~

6 (5) the display of any alcopop beverage in premises
7 licensed to sell alcoholic liquor at retail adjacent to
8 soft drinks, fruit juices, bottled water, candy, or snack
9 foods portraying cartoons or youth-orientated photos.

10 The restrictions on alcopop placements in this
11 paragraph (5) shall not apply to a shelf, aisle, or
12 display area in which the primary items for sale are
13 alcoholic liquors or an area in which persons under the
14 age of 21 are prohibited from entering without a parent or
15 legal guardian.

16 In this paragraph (5), an alcopop is adjacent if
17 placed:

18 (A) on the same shelf or aisle of shelves as soft
19 drinks, fruit juices, bottled water, candy, or snack
20 foods portraying cartoons or youth-orientated photos;

21 (B) on the same display or abutting display that
22 also displays soft drinks, fruit juices, bottled
23 water, candy, or snack foods portraying cartoons or
24 youth-orientated photos;

25 (C) on an end cap display or a display at the end
26 of a shelving row that contains soft drinks, fruit

1 juices, bottled water, candy, or snack foods
2 portraying cartoons or youth-orientated photos;

3 (D) on a display at or near an area that primarily
4 displays soft drinks, fruit juices, bottled water,
5 candy, or snack foods portraying cartoons or
6 youth-orientated photos; or

7 (E) in the same or abutting refrigeration unit
8 that also displays soft drinks, fruit juices, bottled
9 water, candy, or snack foods portraying cartoons or
10 youth-orientated photos.

11 (c) No entity shall sell for consumption an alcohol malt
12 beverage containing caffeine, guarana, taurine, or ginseng,
13 where the beverage constitutes 0.5% or more of alcohol by
14 volume, unless individual containers of the beverage have
15 imprinted on each individual container the following:

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

17 (2) the alcohol content of the beverage.

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

21 (e) Nothing in this Section shall be construed to be
22 inconsistent with any other provision of this Section or any
23 other State or federal laws, rules, or regulations regarding
24 the labeling of alcoholic beverages.

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