



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4119

Introduced 1/15/2004, by Sidney H. Mathias

SYNOPSIS AS INTRODUCED:

235 ILCS 5/3-12	from Ch. 43, par. 108
235 ILCS 5/6-2	from Ch. 43, par. 120

Amends the Liquor Control Act of 1934. Provides that an action by the Illinois Liquor Control Commission to revoke or suspend a licensee's license for a violation of the Act shall be limited to the license for the specific premises where the violation occurred.

LRB093 16708 LRD 42359 b

1 AN ACT concerning alcoholic 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 3-12 and 6-2 as follows:

6 (235 ILCS 5/3-12) (from Ch. 43, par. 108)

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
24 days prior to such violation. Except in the case of an
25 action taken pursuant to a violation of Section 6-3, 6-5,
26 or 6-9, any action by the State Commission to suspend or
27 revoke a licensee's license shall be limited to the license
28 for the specific premises where the violation occurred.

29 In lieu of suspending or revoking a license, the
30 commission may impose a fine, upon the State commission's
31 determination and notice after hearing, that a licensee has
32 violated any provision of this Act or any rule or

1 regulation issued pursuant thereto and in effect for 30
2 days prior to such violation. The fine imposed under this
3 paragraph may not exceed \$500 for each violation. Each day
4 that the activity, which gave rise to the original fine,
5 continues is a separate violation. The maximum fine that
6 may be levied against any licensee, for the period of the
7 license, shall not exceed \$20,000. The maximum penalty that
8 may be imposed on a licensee for selling a bottle of
9 alcoholic liquor with a foreign object in it or serving
10 from a bottle of alcoholic liquor with a foreign object in
11 it shall be the destruction of that bottle of alcoholic
12 liquor for the first 10 bottles so sold or served from by
13 the licensee. For the eleventh bottle of alcoholic liquor
14 and for each third bottle thereafter sold or served from by
15 the licensee with a foreign object in it, the maximum
16 penalty that may be imposed on the licensee is the
17 destruction of the bottle of alcoholic liquor and a fine of
18 up to \$50.

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

27 (3) To call upon other administrative departments of
28 the State, county and municipal governments, county and
29 city police departments and upon prosecuting officers for
30 such information and assistance as it deems necessary in
31 the performance of its duties.

32 (4) To recommend to local commissioners rules and
33 regulations, not inconsistent with the law, for the
34 distribution and sale of alcoholic liquors throughout the
35 State.

36 (5) To inspect, or cause to be inspected, any premises

1 in this State where alcoholic liquors are manufactured,
2 distributed, warehoused, or sold.

3 (5.1) Upon receipt of a complaint or upon having
4 knowledge that any person is engaged in business as a
5 manufacturer, importing distributor, distributor, or
6 retailer without a license or valid license, to notify the
7 local liquor authority, file a complaint with the State's
8 Attorney's Office of the county where the incident
9 occurred, or initiate an investigation with the
10 appropriate law enforcement officials.

11 (5.2) To issue a cease and desist notice to persons
12 shipping alcoholic liquor into this State from a point
13 outside of this State if the shipment is in violation of
14 this Act.

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

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

36 (7) The commission shall establish uniform systems of

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

24 (8) In the conduct of any hearing authorized to be held
25 by the commission, to appoint, at the commission's
26 discretion, hearing officers to conduct hearings involving
27 complex issues or issues that will require a protracted
28 period of time to resolve, to examine, or cause to be
29 examined, under oath, any licensee, and to examine or cause
30 to be examined the books and records of such licensee; to
31 hear testimony and take proof material for its information
32 in the discharge of its duties hereunder; to administer or
33 cause to be administered oaths; for any such purpose to
34 issue subpoena or subpoenas to require the attendance of
35 witnesses and the production of books, which shall be
36 effective in any part of this State, and to adopt rules to

1 implement its powers under this paragraph (8).

2 Any Circuit Court may by order duly entered, require
3 the attendance of witnesses and the production of relevant
4 books subpoenaed by the State commission and the court may
5 compel obedience to its order by proceedings for contempt.

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

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

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

22 (11.1) To license persons providing education and
23 training to alcohol beverage sellers and servers under the
24 Beverage Alcohol Sellers and Servers Education and
25 Training (BASSET) programs and to develop and administer a
26 public awareness program in Illinois to reduce or eliminate
27 the illegal purchase and consumption of alcoholic beverage
28 products by persons under the age of 21. Application for a
29 license shall be made on forms provided by the State
30 Commission.

31 (12) To develop and maintain a repository of license
32 and regulatory information.

33 (13) On or before January 15, 1994, the Commission
34 shall issue a written report to the Governor and General
35 Assembly that is to be based on a comprehensive study of
36 the impact on and implications for the State of Illinois of

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

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

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

10 (ii) the number of reported citations and
11 successful convictions, categorized by type and
12 location of retail distributor, for violation of the
13 Sale of Tobacco to Minors Act and the Smokeless Tobacco
14 Limitation Act;

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

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

22 To obtain the data necessary to comply with the provisions
23 of P.L. 102-321 and the requirements of this report, the
24 Commission shall conduct random, unannounced inspections of a
25 geographically and scientifically representative sample of the
26 State's retail tobacco distributors.

27 The Commission shall consult with the Department of Public
28 Health, the Department of Human Services, the Illinois State
29 Police and any other executive branch agency, and private
30 organizations that may have information relevant to this
31 report.

32 The Commission may contract with the Food and Drug
33 Administration of the U.S. Department of Health and Human
34 Services to conduct unannounced investigations of Illinois
35 tobacco vendors to determine compliance with federal laws
36 relating to the illegal sale of cigarettes and smokeless

1 tobacco products to persons under the age of 18.

2 (b) On or before April 30, 1999, the Commission shall
3 present a written report to the Governor and the General
4 Assembly that shall be based on a study of the impact of this
5 amendatory Act of 1998 on the business of soliciting, selling,
6 and shipping alcoholic liquor from outside of this State
7 directly to residents of this State.

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

10 (i) the amount of State excise and sales tax revenues
11 generated as a result of this amendatory Act of 1998;

12 (ii) the amount of licensing fees received as a result
13 of this amendatory Act of 1998;

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

19 (Source: P.A. 91-553, eff. 8-14-99; 91-922, eff. 7-7-00;
20 92-378, eff. 8-16-01; 92-813, eff. 8-21-02.)

21 (235 ILCS 5/6-2) (from Ch. 43, par. 120)

22 Sec. 6-2. Issuance of licenses to certain persons
23 prohibited.

24 (a) Except as otherwise provided in subsection (b) of this
25 Section and in paragraph (1) of subsection (a) of Section 3-12,
26 no license of any kind issued by the State Commission or any
27 local commission shall be issued to:

28 (1) A person who is not a resident of any city, village
29 or county in which the premises covered by the license are
30 located; except in case of railroad or boat licenses.

31 (2) A person who is not of good character and
32 reputation in the community in which he resides.

33 (3) A person who is not a citizen of the United States.

34 (4) A person who has been convicted of a felony under
35 any Federal or State law, unless the Commission determines

1 that such person has been sufficiently rehabilitated to
2 warrant the public trust after considering matters set
3 forth in such person's application and the Commission's
4 investigation. The burden of proof of sufficient
5 rehabilitation shall be on the applicant.

6 (5) A person who has been convicted of being the keeper
7 or is keeping a house of ill fame.

8 (6) A person who has been convicted of pandering or
9 other crime or misdemeanor opposed to decency and morality.

10 (7) A person whose license issued under this Act has
11 been revoked for cause.

12 (8) A person who at the time of application for renewal
13 of any license issued hereunder would not be eligible for
14 such license upon a first application.

15 (9) A copartnership, if any general partnership
16 thereof, or any limited partnership thereof, owning more
17 than 5% of the aggregate limited partner interest in such
18 copartnership would not be eligible to receive a license
19 hereunder for any reason other than residence within the
20 political subdivision, unless residency is required by
21 local ordinance.

22 (10) A corporation, if any officer, manager or director
23 thereof, or any stockholder or stockholders owning in the
24 aggregate more than 5% of the stock of such corporation,
25 would not be eligible to receive a license hereunder for
26 any reason other than citizenship and residence within the
27 political subdivision.

28 (10a) A corporation unless it is incorporated in
29 Illinois, or unless it is a foreign corporation which is
30 qualified under the Business Corporation Act of 1983 to
31 transact business in Illinois.

32 (11) A person whose place of business is conducted by a
33 manager or agent unless the manager or agent possesses the
34 same qualifications required by the licensee.

35 (12) A person who has been convicted of a violation of
36 any Federal or State law concerning the manufacture,

1 possession or sale of alcoholic liquor, subsequent to the
2 passage of this Act or has forfeited his bond to appear in
3 court to answer charges for any such violation.

4 (13) A person who does not beneficially own the
5 premises for which a license is sought, or does not have a
6 lease thereon for the full period for which the license is
7 to be issued.

8 (14) Any law enforcing public official, including
9 members of local liquor control commissions, any mayor,
10 alderman, or member of the city council or commission, any
11 president of the village board of trustees, any member of a
12 village board of trustees, or any president or member of a
13 county board; and no such official shall be interested
14 directly in the manufacture, sale, or distribution of
15 alcoholic liquor, except that a license may be granted to
16 such official in relation to premises that are not located
17 within the territory subject to the jurisdiction of that
18 official if the issuance of such license is approved by the
19 State Liquor Control Commission and except that a license
20 may be granted, in a city or village with a population of
21 50,000 or less, to any alderman, member of a city council,
22 or member of a village board of trustees in relation to
23 premises that are located within the territory subject to
24 the jurisdiction of that official if (i) the sale of
25 alcoholic liquor pursuant to the license is incidental to
26 the selling of food, (ii) the issuance of the license is
27 approved by the State Commission, (iii) the issuance of the
28 license is in accordance with all applicable local
29 ordinances in effect where the premises are located, and
30 (iv) the official granted a license does not vote on
31 alcoholic liquor issues pending before the board or council
32 to which the license holder is elected.

33 (15) A person who is not a beneficial owner of the
34 business to be operated by the licensee.

35 (16) A person who has been convicted of a gambling
36 offense as proscribed by any of subsections (a) (3) through

1 (a) (11) of Section 28-1 of, or as proscribed by Section
2 28-1.1 or 28-3 of, the Criminal Code of 1961, or as
3 proscribed by a statute replaced by any of the aforesaid
4 statutory provisions.

5 (17) A person or entity to whom a federal wagering
6 stamp has been issued by the federal government, unless the
7 person or entity is eligible to be issued a license under
8 the Raffles Act or the Illinois Pull Tabs and Jar Games
9 Act.

10 (18) A person who intends to sell alcoholic liquors for
11 use or consumption on his or her licensed retail premises
12 who does not have liquor liability insurance coverage for
13 that premises in an amount that is at least equal to the
14 maximum liability amounts set out in subsection (a) of
15 Section 6-21.

16 (b) A criminal conviction of a corporation is not grounds
17 for the denial, suspension, or revocation of a license applied
18 for or held by the corporation if the criminal conviction was
19 not the result of a violation of any federal or State law
20 concerning the manufacture, possession or sale of alcoholic
21 liquor, the offense that led to the conviction did not result
22 in any financial gain to the corporation and the corporation
23 has terminated its relationship with each director, officer,
24 employee, or controlling shareholder whose actions directly
25 contributed to the conviction of the corporation. The
26 Commission shall determine if all provisions of this subsection
27 (b) have been met before any action on the corporation's
28 license is initiated.

29 (Source: P.A. 92-378, eff. 8-16-01; 93-266, eff. 1-1-04.)