



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/05/04, by John A. Fritchey

SYNOPSIS AS INTRODUCED:

235 ILCS 5/5-1

from Ch. 43, par. 115

Amends the Liquor Control Act of 1934. Deletes provisions creating 2 classes of retailer's licenses (on premise consumption license and off premise sale license). Provides that the Illinois Liquor Control Commission may designate a retailer's licensee as either an on premise consumption retailer or an off premise sale retailer. Effective immediately.

LRB093 19000 LRD 44735 b

1 AN ACT in relation to 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 Section 5-1 as follows:

6 (235 ILCS 5/5-1) (from Ch. 43, par. 115)

7 Sec. 5-1. Licenses issued by the Illinois Liquor Control
8 Commission shall be of the following classes:

9 (a) Manufacturer's license - Class 1. Distiller, Class 2.
10 Rectifier, Class 3. Brewer, Class 4. First Class Wine
11 Manufacturer, Class 5. Second Class Wine Manufacturer, Class 6.
12 First Class Winemaker, Class 7. Second Class Winemaker, Class
13 8. Limited Wine Manufacturer,

14 (b) Distributor's license,

15 (c) Importing Distributor's license,

16 (d) Retailer's license,

17 (e) Special Event Retailer's license (not-for-profit),

18 (f) Railroad license,

19 (g) Boat license,

20 (h) Non-Beverage User's license,

21 (i) Wine-maker's premises license,

22 (j) Airplane license,

23 (k) Foreign importer's license,

24 (l) Broker's license,

25 (m) Non-resident dealer's license,

26 (n) Brew Pub license,

27 (o) Auction liquor license,

28 (p) Caterer retailer license,

29 (q) Special use permit license.

30 No person, firm, partnership, corporation, or other legal
31 business entity that is engaged in the manufacturing of wine
32 may concurrently obtain and hold a wine-maker's license and a

1 wine manufacturer's license.

2 (a) A manufacturer's license shall allow the manufacture,
3 importation in bulk, storage, distribution and sale of
4 alcoholic liquor to persons without the State, as may be
5 permitted by law and to licensees in this State as follows:

6 Class 1. A Distiller may make sales and deliveries of
7 alcoholic liquor to distillers, rectifiers, importing
8 distributors, distributors and non-beverage users and to no
9 other licensees.

10 Class 2. A Rectifier, who is not a distiller, as defined
11 herein, may make sales and deliveries of alcoholic liquor to
12 rectifiers, importing distributors, distributors, retailers
13 and non-beverage users and to no other licensees.

14 Class 3. A Brewer may make sales and deliveries of beer to
15 importing distributors, distributors, and to non-licensees,
16 and to retailers provided the brewer obtains an importing
17 distributor's license or distributor's license in accordance
18 with the provisions of this Act.

19 Class 4. A first class wine-manufacturer may make sales and
20 deliveries of up to 50,000 gallons of wine to manufacturers,
21 importing distributors and distributors, and to no other
22 licensees.

23 Class 5. A second class Wine manufacturer may make sales
24 and deliveries of more than 50,000 gallons of wine to
25 manufacturers, importing distributors and distributors and to
26 no other licensees.

27 Class 6. A first-class wine-maker's license shall allow the
28 manufacture of up to 50,000 gallons of wine per year, and the
29 storage and sale of such wine to distributors in the State and
30 to persons without the State, as may be permitted by law. A
31 first-class wine-maker's license shall allow the sale of no
32 more than 5,000 gallons of the licensee's wine to retailers.
33 The State Commission shall issue only one first-class
34 wine-maker's license to any person, firm, partnership,
35 corporation, or other legal business entity that is engaged in
36 the making of less than 50,000 gallons of wine annually that

1 applies for a first-class wine-maker's license. No subsidiary
2 or affiliate thereof, nor any officer, associate, member,
3 partner, representative, employee, agent, or shareholder may
4 be issued an additional wine-maker's license by the State
5 Commission.

6 Class 7. A second-class wine-maker's license shall allow
7 the manufacture of between 50,000 and 100,000 gallons of wine
8 per year, and the storage and sale of such wine to distributors
9 in this State and to persons without the State, as may be
10 permitted by law. A second-class wine-maker's license shall
11 allow the sale of no more than 10,000 gallons of the licensee's
12 wine directly to retailers. The State Commission shall issue
13 only one second-class wine-maker's license to any person, firm,
14 partnership, corporation, or other legal business entity that
15 is engaged in the making of less than 100,000 gallons of wine
16 annually that applies for a second-class wine-maker's license.
17 No subsidiary or affiliate thereof, or any officer, associate,
18 member, partner, representative, employee, agent, or
19 shareholder may be issued an additional wine-maker's license by
20 the State Commission.

21 Class 8. A limited wine-manufacturer may make sales and
22 deliveries not to exceed 40,000 gallons of wine per year to
23 distributors, and to non-licensees in accordance with the
24 provisions of this Act.

25 (a-1) A manufacturer which is licensed in this State to
26 make sales or deliveries of alcoholic liquor and which enlists
27 agents, representatives, or individuals acting on its behalf
28 who contact licensed retailers on a regular and continual basis
29 in this State must register those agents, representatives, or
30 persons acting on its behalf with the State Commission.

31 Registration of agents, representatives, or persons acting
32 on behalf of a manufacturer is fulfilled by submitting a form
33 to the Commission. The form shall be developed by the
34 Commission and shall include the name and address of the
35 applicant, the name and address of the manufacturer he or she
36 represents, the territory or areas assigned to sell to or

1 discuss pricing terms of alcoholic liquor, and any other
2 questions deemed appropriate and necessary. All statements in
3 the forms required to be made by law or by rule shall be deemed
4 material, and any person who knowingly misstates any material
5 fact under oath in an application is guilty of a Class B
6 misdemeanor. Fraud, misrepresentation, false statements,
7 misleading statements, evasions, or suppression of material
8 facts in the securing of a registration are grounds for
9 suspension or revocation of the registration.

10 (b) A distributor's license shall allow the wholesale
11 purchase and storage of alcoholic liquors and sale of alcoholic
12 liquors to licensees in this State and to persons without the
13 State, as may be permitted by law.

14 (c) An importing distributor's license may be issued to and
15 held by those only who are duly licensed distributors, upon the
16 filing of an application by a duly licensed distributor, with
17 the Commission and the Commission shall, without the payment of
18 any fee, immediately issue such importing distributor's
19 license to the applicant, which shall allow the importation of
20 alcoholic liquor by the licensee into this State from any point
21 in the United States outside this State, and the purchase of
22 alcoholic liquor in barrels, casks or other bulk containers and
23 the bottling of such alcoholic liquors before resale thereof,
24 but all bottles or containers so filled shall be sealed,
25 labeled, stamped and otherwise made to comply with all
26 provisions, rules and regulations governing manufacturers in
27 the preparation and bottling of alcoholic liquors. The
28 importing distributor's license shall permit such licensee to
29 purchase alcoholic liquor from Illinois licensed non-resident
30 dealers and foreign importers only.

31 (d) A retailer's license shall allow the licensee to sell
32 and offer for sale at retail, only in the premises specified in
33 the ~~such~~ license, alcoholic liquor for use or consumption, but
34 not for resale in any form: Provided that any retail license
35 issued to a manufacturer shall only permit the ~~such~~
36 manufacturer to sell beer at retail on the premises actually

1 occupied by the such manufacturer. For the purpose of further
2 describing the type of business conducted at a retail licensed
3 premises, a retailer's licensee may be designated by the State
4 Commission as either an on premise consumption retailer or an
5 off premise sale retailer.

6 ~~After January 1, 1995 there shall be 2 classes of licenses~~
7 ~~issued under a retailers license.~~

8 ~~(1) A "retailers on premise consumption license" shall~~
9 ~~allow the licensee to sell and offer for sale at retail,~~
10 ~~only on the premises specified in the license, alcoholic~~
11 ~~liquor for use or consumption on the premises or on and off~~
12 ~~the premises, but not for resale in any form.~~

13 ~~(2) An "off premise sale license" shall allow the~~
14 ~~licensee to sell, or offer for sale at retail, alcoholic~~
15 ~~liquor intended only for off premise consumption and not~~
16 ~~for resale in any form.~~

17 Notwithstanding any other provision of this subsection
18 (d), a retail licensee may sell alcoholic liquors to a special
19 event retailer licensee for resale to the extent permitted
20 under subsection (e).

21 (e) A special event retailer's license (not-for-profit)
22 shall permit the licensee to purchase alcoholic liquors from an
23 Illinois licensed distributor (unless the licensee purchases
24 less than \$500 of alcoholic liquors for the special event, in
25 which case the licensee may purchase the alcoholic liquors from
26 a licensed retailer) and shall allow the licensee to sell and
27 offer for sale, at retail, alcoholic liquors for use or
28 consumption, but not for resale in any form and only at the
29 location and on the specific dates designated for the special
30 event in the license. An applicant for a special event retailer
31 license must (i) furnish with the application: (A) a resale
32 number issued under Section 2c of the Retailers' Occupation Tax
33 Act or evidence that the applicant is registered under Section
34 2a of the Retailers' Occupation Tax Act, (B) a current, valid
35 exemption identification number issued under Section 1g of the
36 Retailers' Occupation Tax Act, and a certification to the

1 Commission that the purchase of alcoholic liquors will be a
2 tax-exempt purchase, or (C) a statement that the applicant is
3 not registered under Section 2a of the Retailers' Occupation
4 Tax Act, does not hold a resale number under Section 2c of the
5 Retailers' Occupation Tax Act, and does not hold an exemption
6 number under Section 1g of the Retailers' Occupation Tax Act,
7 in which event the Commission shall set forth on the special
8 event retailer's license a statement to that effect; (ii)
9 submit with the application proof satisfactory to the State
10 Commission that the applicant will provide dram shop liability
11 insurance in the maximum limits; and (iii) show proof
12 satisfactory to the State Commission that the applicant has
13 obtained local authority approval.

14 (f) A railroad license shall permit the licensee to import
15 alcoholic liquors into this State from any point in the United
16 States outside this State and to store such alcoholic liquors
17 in this State; to make wholesale purchases of alcoholic liquors
18 directly from manufacturers, foreign importers, distributors
19 and importing distributors from within or outside this State;
20 and to store such alcoholic liquors in this State; provided
21 that the above powers may be exercised only in connection with
22 the importation, purchase or storage of alcoholic liquors to be
23 sold or dispensed on a club, buffet, lounge or dining car
24 operated on an electric, gas or steam railway in this State;
25 and provided further, that railroad licensees exercising the
26 above powers shall be subject to all provisions of Article VIII
27 of this Act as applied to importing distributors. A railroad
28 license shall also permit the licensee to sell or dispense
29 alcoholic liquors on any club, buffet, lounge or dining car
30 operated on an electric, gas or steam railway regularly
31 operated by a common carrier in this State, but shall not
32 permit the sale for resale of any alcoholic liquors to any
33 licensee within this State. A license shall be obtained for
34 each car in which such sales are made.

35 (g) A boat license shall allow the sale of alcoholic liquor
36 in individual drinks, on any passenger boat regularly operated

1 as a common carrier on navigable waters in this State or on any
 2 riverboat operated under the Riverboat Gambling Act, which boat
 3 or riverboat maintains a public dining room or restaurant
 4 thereon.

5 (h) A non-beverage user's license shall allow the licensee
 6 to purchase alcoholic liquor from a licensed manufacturer or
 7 importing distributor, without the imposition of any tax upon
 8 the business of such licensed manufacturer or importing
 9 distributor as to such alcoholic liquor to be used by such
 10 licensee solely for the non-beverage purposes set forth in
 11 subsection (a) of Section 8-1 of this Act, and such licenses
 12 shall be divided and classified and shall permit the purchase,
 13 possession and use of limited and stated quantities of
 14 alcoholic liquor as follows:

- 15 Class 1, not to exceed 500 gallons
- 16 Class 2, not to exceed 1,000 gallons
- 17 Class 3, not to exceed 5,000 gallons
- 18 Class 4, not to exceed10,000 gallons
- 19 Class 5, not to exceed50,000 gallons

20 (i) A wine-maker's premises license shall allow a licensee
 21 that concurrently holds a first-class wine-maker's license to
 22 sell and offer for sale at retail in the premises specified in
 23 such license not more than 50,000 gallons of the first-class
 24 wine-maker's wine that is made at the first-class wine-maker's
 25 licensed premises per year for use or consumption, but not for
 26 resale in any form. A wine-maker's premises license shall allow
 27 a licensee who concurrently holds a second-class wine-maker's
 28 license to sell and offer for sale at retail in the premises
 29 specified in such license up to 100,000 gallons of the
 30 second-class wine-maker's wine that is made at the second-class
 31 wine-maker's licensed premises per year for use or consumption
 32 but not for resale in any form. Upon approval from the State
 33 Commission, a wine-maker's premises license shall allow the
 34 licensee to sell and offer for sale at (i) the wine-maker's
 35 licensed premises and (ii) at up to 2 additional locations for
 36 use and consumption and not for resale. Each location shall

1 require additional licensing per location as specified in
2 Section 5-3 of this Act.

3 (j) An airplane license shall permit the licensee to import
4 alcoholic liquors into this State from any point in the United
5 States outside this State and to store such alcoholic liquors
6 in this State; to make wholesale purchases of alcoholic liquors
7 directly from manufacturers, foreign importers, distributors
8 and importing distributors from within or outside this State;
9 and to store such alcoholic liquors in this State; provided
10 that the above powers may be exercised only in connection with
11 the importation, purchase or storage of alcoholic liquors to be
12 sold or dispensed on an airplane; and provided further, that
13 airplane licensees exercising the above powers shall be subject
14 to all provisions of Article VIII of this Act as applied to
15 importing distributors. An airplane licensee shall also permit
16 the sale or dispensing of alcoholic liquors on any passenger
17 airplane regularly operated by a common carrier in this State,
18 but shall not permit the sale for resale of any alcoholic
19 liquors to any licensee within this State. A single airplane
20 license shall be required of an airline company if liquor
21 service is provided on board aircraft in this State. The annual
22 fee for such license shall be as determined in Section 5-3.

23 (k) A foreign importer's license shall permit such licensee
24 to purchase alcoholic liquor from Illinois licensed
25 non-resident dealers only, and to import alcoholic liquor other
26 than in bulk from any point outside the United States and to
27 sell such alcoholic liquor to Illinois licensed importing
28 distributors and to no one else in Illinois; provided that the
29 foreign importer registers with the State Commission every
30 brand of alcoholic liquor that it proposes to sell to Illinois
31 licensees during the license period and provided further that
32 the foreign importer complies with all of the provisions of
33 Section 6-9 of this Act with respect to registration of such
34 Illinois licensees as may be granted the right to sell such
35 brands at wholesale.

36 (l) (i) A broker's license shall be required of all persons

1 who solicit orders for, offer to sell or offer to supply
2 alcoholic liquor to retailers in the State of Illinois, or who
3 offer to retailers to ship or cause to be shipped or to make
4 contact with distillers, rectifiers, brewers or manufacturers
5 or any other party within or without the State of Illinois in
6 order that alcoholic liquors be shipped to a distributor,
7 importing distributor or foreign importer, whether such
8 solicitation or offer is consummated within or without the
9 State of Illinois.

10 No holder of a retailer's license issued by the Illinois
11 Liquor Control Commission shall purchase or receive any
12 alcoholic liquor, the order for which was solicited or offered
13 for sale to such retailer by a broker unless the broker is the
14 holder of a valid broker's license.

15 The broker shall, upon the acceptance by a retailer of the
16 broker's solicitation of an order or offer to sell or supply or
17 deliver or have delivered alcoholic liquors, promptly forward
18 to the Illinois Liquor Control Commission a notification of
19 said transaction in such form as the Commission may by
20 regulations prescribe.

21 (ii) A broker's license shall be required of a person
22 within this State, other than a retail licensee, who, for a fee
23 or commission, promotes, solicits, or accepts orders for
24 alcoholic liquor, for use or consumption and not for resale, to
25 be shipped from this State and delivered to residents outside
26 of this State by an express company, common carrier, or
27 contract carrier. This Section does not apply to any person who
28 promotes, solicits, or accepts orders for wine as specifically
29 authorized in Section 6-29 of this Act.

30 A broker's license under this subsection (1) shall not
31 entitle the holder to buy or sell any alcoholic liquors for his
32 own account or to take or deliver title to such alcoholic
33 liquors.

34 This subsection (1) shall not apply to distributors,
35 employees of distributors, or employees of a manufacturer who
36 has registered the trademark, brand or name of the alcoholic

1 liquor pursuant to Section 6-9 of this Act, and who regularly
2 sells such alcoholic liquor in the State of Illinois only to
3 its registrants thereunder.

4 Any agent, representative, or person subject to
5 registration pursuant to subsection (a-1) of this Section shall
6 not be eligible to receive a broker's license.

7 (m) A non-resident dealer's license shall permit such
8 licensee to ship into and warehouse alcoholic liquor into this
9 State from any point outside of this State, and to sell such
10 alcoholic liquor to Illinois licensed foreign importers and
11 importing distributors and to no one else in this State;
12 provided that said non-resident dealer shall register with the
13 Illinois Liquor Control Commission each and every brand of
14 alcoholic liquor which it proposes to sell to Illinois
15 licensees during the license period; and further provided that
16 it shall comply with all of the provisions of Section 6-9
17 hereof with respect to registration of such Illinois licensees
18 as may be granted the right to sell such brands at wholesale.

19 (n) A brew pub license shall allow the licensee to
20 manufacture beer only on the premises specified in the license,
21 to make sales of the beer manufactured on the premises to
22 importing distributors, distributors, and to non-licensees for
23 use and consumption, to store the beer upon the premises, and
24 to sell and offer for sale at retail from the licensed
25 premises, provided that a brew pub licensee shall not sell for
26 off-premises consumption more than 50,000 gallons per year.

27 (o) A caterer retailer license shall allow the holder to
28 serve alcoholic liquors as an incidental part of a food service
29 that serves prepared meals which excludes the serving of snacks
30 as the primary meal, either on or off-site whether licensed or
31 unlicensed.

32 (p) An auction liquor license shall allow the licensee to
33 sell and offer for sale at auction wine and spirits for use or
34 consumption, or for resale by an Illinois liquor licensee in
35 accordance with provisions of this Act. An auction liquor
36 license will be issued to a person and it will permit the

1 auction liquor licensee to hold the auction anywhere in the
2 State. An auction liquor license must be obtained for each
3 auction at least 14 days in advance of the auction date.

4 (q) A special use permit license shall allow an Illinois
5 licensed retailer to transfer a portion of its alcoholic liquor
6 inventory from its retail licensed premises to the premises
7 specified in the license hereby created, and to sell or offer
8 for sale at retail, only in the premises specified in the
9 license hereby created, the transferred alcoholic liquor for
10 use or consumption, but not for resale in any form. A special
11 use permit license may be granted for the following time
12 periods: one day or less; 2 or more days to a maximum of 15 days
13 per location in any 12 month period. An applicant for the
14 special use permit license must also submit with the
15 application proof satisfactory to the State Commission that the
16 applicant will provide dram shop liability insurance to the
17 maximum limits and have local authority approval.

18 (Source: P.A. 91-357, eff. 7-29-99; 92-105, eff. 1-1-02;
19 92-378, eff. 8-16-01; 92-651, eff. 7-11-02; 92-672, eff.
20 7-16-02.)

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