



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/09/04, by Timothy L. Schmitz

SYNOPSIS AS INTRODUCED:

235 ILCS 5/1-3.05	from Ch. 43, par. 95.05
235 ILCS 5/1-3.38 new	
235 ILCS 5/5-1	from Ch. 43, par. 115

Amends the Liquor Control Act of 1934. Defines "alcoholic beverages" to mean the same as "alcoholic liquor". Defines "licensed premises" as a place or location in Illinois where alcoholic liquor is manufactured, stored, displayed, or offered for sale or where drinks containing alcoholic liquors are mixed, concocted, and served for consumption. Provides that a distributor's license allows the wholesale purchase or storage of alcoholic liquors at a licensed premises. Effective immediately.

LRB093 18999 LRD 46888 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 Sections 1-3.05 and 5-1 and by adding Section 1-3.38
6 as follows:

7 (235 ILCS 5/1-3.05) (from Ch. 43, par. 95.05)

8 Sec. 1-3.05. "Alcoholic liquor" or "alcoholic beverages"
9 includes alcohol, spirits, wine and beer, and every liquid or
10 solid, patented or not, containing alcohol, spirits, wine or
11 beer, and capable of being consumed as a beverage by a human
12 being. The provisions of this Act shall not apply to alcohol
13 used in the manufacture of denatured alcohol produced in
14 accordance with Acts of Congress and regulations promulgated
15 thereunder, nor to any liquid or solid containing one-half of
16 one per cent, or less, of alcohol by volume. No tax provided
17 for in Article VIII of this Act shall apply to wine intended
18 for use and used by any church or religious organization for
19 sacramental purposes, provided that such wine shall be
20 purchased from a licensed manufacturer or importing
21 distributor under this Act.

22 (Source: P.A. 82-783.)

23 (235 ILCS 5/1-3.38 new)

24 Sec. 1-3.38. "Premises" or "licensed premises" means the
25 place or location in Illinois where alcoholic liquor is
26 manufactured, stored, displayed, or offered for sale or where
27 drinks containing alcoholic liquors are mixed, concocted, and
28 served for consumption.

29 (235 ILCS 5/5-1) (from Ch. 43, par. 115)

30 Sec. 5-1. Licenses issued by the Illinois Liquor Control

1 Commission shall be of the following classes:

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

7 (b) Distributor's license,

8 (c) Importing Distributor's license,

9 (d) Retailer's license,

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

11 (f) Railroad license,

12 (g) Boat license,

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

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

15 (j) Airplane license,

16 (k) Foreign importer's license,

17 (l) Broker's license,

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

19 (n) Brew Pub license,

20 (o) Auction liquor license,

21 (p) Caterer retailer license,

22 (q) Special use permit license.

23 No person, firm, partnership, corporation, or other legal
24 business entity that is engaged in the manufacturing of wine
25 may concurrently obtain and hold a wine-maker's license and a
26 wine manufacturer's license.

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

31 Class 1. A Distiller may make sales and deliveries of
32 alcoholic liquor to distillers, rectifiers, importing
33 distributors, distributors and non-beverage users and to no
34 other licensees.

35 Class 2. A Rectifier, who is not a distiller, as defined
36 herein, may make sales and deliveries of alcoholic liquor to

1 rectifiers, importing distributors, distributors, retailers
2 and non-beverage users and to no other licensees.

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

8 Class 4. A first class wine-manufacturer may make sales and
9 deliveries of up to 50,000 gallons of wine to manufacturers,
10 importing distributors and distributors, and to no other
11 licensees.

12 Class 5. A second class Wine manufacturer may make sales
13 and deliveries of more than 50,000 gallons of wine to
14 manufacturers, importing distributors and distributors and to
15 no other licensees.

16 Class 6. A first-class wine-maker's license shall allow the
17 manufacture of up to 50,000 gallons of wine per year, and the
18 storage and sale of such wine to distributors in the State and
19 to persons without the State, as may be permitted by law. A
20 first-class wine-maker's license shall allow the sale of no
21 more than 5,000 gallons of the licensee's wine to retailers.
22 The State Commission shall issue only one first-class
23 wine-maker's license to any person, firm, partnership,
24 corporation, or other legal business entity that is engaged in
25 the making of less than 50,000 gallons of wine annually that
26 applies for a first-class wine-maker's license. No subsidiary
27 or affiliate thereof, nor any officer, associate, member,
28 partner, representative, employee, agent, or shareholder may
29 be issued an additional wine-maker's license by the State
30 Commission.

31 Class 7. A second-class wine-maker's license shall allow
32 the manufacture of between 50,000 and 100,000 gallons of wine
33 per year, and the storage and sale of such wine to distributors
34 in this State and to persons without the State, as may be
35 permitted by law. A second-class wine-maker's license shall
36 allow the sale of no more than 10,000 gallons of the licensee's

1 wine directly to retailers. The State Commission shall issue
2 only one second-class wine-maker's license to any person, firm,
3 partnership, corporation, or other legal business entity that
4 is engaged in the making of less than 100,000 gallons of wine
5 annually that applies for a second-class wine-maker's license.
6 No subsidiary or affiliate thereof, or any officer, associate,
7 member, partner, representative, employee, agent, or
8 shareholder may be issued an additional wine-maker's license by
9 the State Commission.

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

14 (a-1) A manufacturer which is licensed in this State to
15 make sales or deliveries of alcoholic liquor and which enlists
16 agents, representatives, or individuals acting on its behalf
17 who contact licensed retailers on a regular and continual basis
18 in this State must register those agents, representatives, or
19 persons acting on its behalf with the State Commission.

20 Registration of agents, representatives, or persons acting
21 on behalf of a manufacturer is fulfilled by submitting a form
22 to the Commission. The form shall be developed by the
23 Commission and shall include the name and address of the
24 applicant, the name and address of the manufacturer he or she
25 represents, the territory or areas assigned to sell to or
26 discuss pricing terms of alcoholic liquor, and any other
27 questions deemed appropriate and necessary. All statements in
28 the forms required to be made by law or by rule shall be deemed
29 material, and any person who knowingly misstates any material
30 fact under oath in an application is guilty of a Class B
31 misdemeanor. Fraud, misrepresentation, false statements,
32 misleading statements, evasions, or suppression of material
33 facts in the securing of a registration are grounds for
34 suspension or revocation of the registration.

35 (b) A distributor's license shall allow the wholesale
36 purchase and storage of alcoholic liquors at a licensed

1 premises and sale of alcoholic liquors to licensees in this
2 State and to persons without the State, as may be permitted by
3 law.

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

21 (d) A retailer's license shall allow the licensee to sell
22 and offer for sale at retail, only in the premises specified in
23 such license, alcoholic liquor for use or consumption, but not
24 for resale in any form: Provided that any retail license issued
25 to a manufacturer shall only permit such manufacturer to sell
26 beer at retail on the premises actually occupied by such
27 manufacturer.

28 After January 1, 1995 there shall be 2 classes of licenses
29 issued under a retailers license.

30 (1) A "retailers on premise consumption license" shall
31 allow the licensee to sell and offer for sale at retail,
32 only on the premises specified in the license, alcoholic
33 liquor for use or consumption on the premises or on and off
34 the premises, but not for resale in any form.

35 (2) An "off premise sale license" shall allow the
36 licensee to sell, or offer for sale at retail, alcoholic

1 liquor intended only for off premise consumption and not
2 for resale in any form.

3 Notwithstanding any other provision of this subsection
4 (d), a retail licensee may sell alcoholic liquors to a special
5 event retailer licensee for resale to the extent permitted
6 under subsection (e).

7 (e) A special event retailer's license (not-for-profit)
8 shall permit the licensee to purchase alcoholic liquors from an
9 Illinois licensed distributor (unless the licensee purchases
10 less than \$500 of alcoholic liquors for the special event, in
11 which case the licensee may purchase the alcoholic liquors from
12 a licensed retailer) and shall allow the licensee to sell and
13 offer for sale, at retail, alcoholic liquors for use or
14 consumption, but not for resale in any form and only at the
15 location and on the specific dates designated for the special
16 event in the license. An applicant for a special event retailer
17 license must (i) furnish with the application: (A) a resale
18 number issued under Section 2c of the Retailers' Occupation Tax
19 Act or evidence that the applicant is registered under Section
20 2a of the Retailers' Occupation Tax Act, (B) a current, valid
21 exemption identification number issued under Section 1g of the
22 Retailers' Occupation Tax Act, and a certification to the
23 Commission that the purchase of alcoholic liquors will be a
24 tax-exempt purchase, or (C) a statement that the applicant is
25 not registered under Section 2a of the Retailers' Occupation
26 Tax Act, does not hold a resale number under Section 2c of the
27 Retailers' Occupation Tax Act, and does not hold an exemption
28 number under Section 1g of the Retailers' Occupation Tax Act,
29 in which event the Commission shall set forth on the special
30 event retailer's license a statement to that effect; (ii)
31 submit with the application proof satisfactory to the State
32 Commission that the applicant will provide dram shop liability
33 insurance in the maximum limits; and (iii) show proof
34 satisfactory to the State Commission that the applicant has
35 obtained local authority approval.

36 (f) A railroad license shall permit the licensee to import

1 alcoholic liquors into this State from any point in the United
2 States outside this State and to store such alcoholic liquors
3 in this State; to make wholesale purchases of alcoholic liquors
4 directly from manufacturers, foreign importers, distributors
5 and importing distributors from within or outside this State;
6 and to store such alcoholic liquors in this State; provided
7 that the above powers may be exercised only in connection with
8 the importation, purchase or storage of alcoholic liquors to be
9 sold or dispensed on a club, buffet, lounge or dining car
10 operated on an electric, gas or steam railway in this State;
11 and provided further, that railroad licensees exercising the
12 above powers shall be subject to all provisions of Article VIII
13 of this Act as applied to importing distributors. A railroad
14 license shall also permit the licensee to sell or dispense
15 alcoholic liquors on any club, buffet, lounge or dining car
16 operated on an electric, gas or steam railway regularly
17 operated by a common carrier in this State, but shall not
18 permit the sale for resale of any alcoholic liquors to any
19 licensee within this State. A license shall be obtained for
20 each car in which such sales are made.

21 (g) A boat license shall allow the sale of alcoholic liquor
22 in individual drinks, on any passenger boat regularly operated
23 as a common carrier on navigable waters in this State or on any
24 riverboat operated under the Riverboat Gambling Act, which boat
25 or riverboat maintains a public dining room or restaurant
26 thereon.

27 (h) A non-beverage user's license shall allow the licensee
28 to purchase alcoholic liquor from a licensed manufacturer or
29 importing distributor, without the imposition of any tax upon
30 the business of such licensed manufacturer or importing
31 distributor as to such alcoholic liquor to be used by such
32 licensee solely for the non-beverage purposes set forth in
33 subsection (a) of Section 8-1 of this Act, and such licenses
34 shall be divided and classified and shall permit the purchase,
35 possession and use of limited and stated quantities of
36 alcoholic liquor as follows:

- 1 Class 1, not to exceed 500 gallons
- 2 Class 2, not to exceed 1,000 gallons
- 3 Class 3, not to exceed 5,000 gallons
- 4 Class 4, not to exceed10,000 gallons
- 5 Class 5, not to exceed50,000 gallons

6 (i) A wine-maker's premises license shall allow a licensee
 7 that concurrently holds a first-class wine-maker's license to
 8 sell and offer for sale at retail in the premises specified in
 9 such license not more than 50,000 gallons of the first-class
 10 wine-maker's wine that is made at the first-class wine-maker's
 11 licensed premises per year for use or consumption, but not for
 12 resale in any form. A wine-maker's premises license shall allow
 13 a licensee who concurrently holds a second-class wine-maker's
 14 license to sell and offer for sale at retail in the premises
 15 specified in such license up to 100,000 gallons of the
 16 second-class wine-maker's wine that is made at the second-class
 17 wine-maker's licensed premises per year for use or consumption
 18 but not for resale in any form. Upon approval from the State
 19 Commission, a wine-maker's premises license shall allow the
 20 licensee to sell and offer for sale at (i) the wine-maker's
 21 licensed premises and (ii) at up to 2 additional locations for
 22 use and consumption and not for resale. Each location shall
 23 require additional licensing per location as specified in
 24 Section 5-3 of this Act.

25 (j) An airplane license shall permit the licensee to import
 26 alcoholic liquors into this State from any point in the United
 27 States outside this State and to store such alcoholic liquors
 28 in this State; to make wholesale purchases of alcoholic liquors
 29 directly from manufacturers, foreign importers, distributors
 30 and importing distributors from within or outside this State;
 31 and to store such alcoholic liquors in this State; provided
 32 that the above powers may be exercised only in connection with
 33 the importation, purchase or storage of alcoholic liquors to be
 34 sold or dispensed on an airplane; and provided further, that
 35 airplane licensees exercising the above powers shall be subject
 36 to all provisions of Article VIII of this Act as applied to

1 importing distributors. An airplane licensee shall also permit
2 the sale or dispensing of alcoholic liquors on any passenger
3 airplane regularly operated by a common carrier in this State,
4 but shall not permit the sale for resale of any alcoholic
5 liquors to any licensee within this State. A single airplane
6 license shall be required of an airline company if liquor
7 service is provided on board aircraft in this State. The annual
8 fee for such license shall be as determined in Section 5-3.

9 (k) A foreign importer's license shall permit such licensee
10 to purchase alcoholic liquor from Illinois licensed
11 non-resident dealers only, and to import alcoholic liquor other
12 than in bulk from any point outside the United States and to
13 sell such alcoholic liquor to Illinois licensed importing
14 distributors and to no one else in Illinois; provided that the
15 foreign importer registers with the State Commission every
16 brand of alcoholic liquor that it proposes to sell to Illinois
17 licensees during the license period and provided further that
18 the foreign importer complies with all of the provisions of
19 Section 6-9 of this Act with respect to registration of such
20 Illinois licensees as may be granted the right to sell such
21 brands at wholesale.

22 (l) (i) A broker's license shall be required of all persons
23 who solicit orders for, offer to sell or offer to supply
24 alcoholic liquor to retailers in the State of Illinois, or who
25 offer to retailers to ship or cause to be shipped or to make
26 contact with distillers, rectifiers, brewers or manufacturers
27 or any other party within or without the State of Illinois in
28 order that alcoholic liquors be shipped to a distributor,
29 importing distributor or foreign importer, whether such
30 solicitation or offer is consummated within or without the
31 State of Illinois.

32 No holder of a retailer's license issued by the Illinois
33 Liquor Control Commission shall purchase or receive any
34 alcoholic liquor, the order for which was solicited or offered
35 for sale to such retailer by a broker unless the broker is the
36 holder of a valid broker's license.

1 The broker shall, upon the acceptance by a retailer of the
2 broker's solicitation of an order or offer to sell or supply or
3 deliver or have delivered alcoholic liquors, promptly forward
4 to the Illinois Liquor Control Commission a notification of
5 said transaction in such form as the Commission may by
6 regulations prescribe.

7 (ii) A broker's license shall be required of a person
8 within this State, other than a retail licensee, who, for a fee
9 or commission, promotes, solicits, or accepts orders for
10 alcoholic liquor, for use or consumption and not for resale, to
11 be shipped from this State and delivered to residents outside
12 of this State by an express company, common carrier, or
13 contract carrier. This Section does not apply to any person who
14 promotes, solicits, or accepts orders for wine as specifically
15 authorized in Section 6-29 of this Act.

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

20 This subsection (1) shall not apply to distributors,
21 employees of distributors, or employees of a manufacturer who
22 has registered the trademark, brand or name of the alcoholic
23 liquor pursuant to Section 6-9 of this Act, and who regularly
24 sells such alcoholic liquor in the State of Illinois only to
25 its registrants thereunder.

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

29 (m) A non-resident dealer's license shall permit such
30 licensee to ship into and warehouse alcoholic liquor into this
31 State from any point outside of this State, and to sell such
32 alcoholic liquor to Illinois licensed foreign importers and
33 importing distributors and to no one else in this State;
34 provided that said non-resident dealer shall register with the
35 Illinois Liquor Control Commission each and every brand of
36 alcoholic liquor which it proposes to sell to Illinois

1 licensees during the license period; and further provided that
2 it shall comply with all of the provisions of Section 6-9
3 hereof with respect to registration of such Illinois licensees
4 as may be granted the right to sell such brands at wholesale.

5 (n) A brew pub license shall allow the licensee to
6 manufacture beer only on the premises specified in the license,
7 to make sales of the beer manufactured on the premises to
8 importing distributors, distributors, and to non-licensees for
9 use and consumption, to store the beer upon the premises, and
10 to sell and offer for sale at retail from the licensed
11 premises, provided that a brew pub licensee shall not sell for
12 off-premises consumption more than 50,000 gallons per year.

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

18 (p) An auction liquor license shall allow the licensee to
19 sell and offer for sale at auction wine and spirits for use or
20 consumption, or for resale by an Illinois liquor licensee in
21 accordance with provisions of this Act. An auction liquor
22 license will be issued to a person and it will permit the
23 auction liquor licensee to hold the auction anywhere in the
24 State. An auction liquor license must be obtained for each
25 auction at least 14 days in advance of the auction date.

26 (q) A special use permit license shall allow an Illinois
27 licensed retailer to transfer a portion of its alcoholic liquor
28 inventory from its retail licensed premises to the premises
29 specified in the license hereby created, and to sell or offer
30 for sale at retail, only in the premises specified in the
31 license hereby created, the transferred alcoholic liquor for
32 use or consumption, but not for resale in any form. A special
33 use permit license may be granted for the following time
34 periods: one day or less; 2 or more days to a maximum of 15 days
35 per location in any 12 month period. An applicant for the
36 special use permit license must also submit with the

1 application proof satisfactory to the State Commission that the
2 applicant will provide dram shop liability insurance to the
3 maximum limits and have local authority approval.

4 (Source: P.A. 91-357, eff. 7-29-99; 92-105, eff. 1-1-02;
5 92-378, eff. 8-16-01; 92-651, eff. 7-11-02; 92-672, eff.
6 7-16-02.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.