

1                                    AMENDMENT TO SENATE BILL 411

2            AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 411, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5            "Section 5. The Liquor Control Act of 1934 is amended by  
6 changing Section 3-12 as follows:

7            (235 ILCS 5/3-12) (from Ch. 43, par. 108)

8            Sec. 3-12. Powers and duties of State Commission.

9            (a) The State commission shall have the following  
10 powers, functions and duties:

11            (1) To receive applications and to issue licenses  
12 to manufacturers, foreign importers, importing  
13 distributors, distributors, non-resident dealers, on  
14 premise consumption retailers, off premise sale  
15 retailers, special event retailer licensees, special use  
16 permit licenses, auction liquor licenses, brew pubs,  
17 caterer retailers, non-beverage users, railroads,  
18 including owners and lessees of sleeping, dining and cafe  
19 cars, airplanes, boats, brokers, and wine maker's  
20 premises licensees in accordance with the provisions of  
21 this Act, and to suspend or revoke such licenses upon the  
22 State commission's determination, upon notice after

1 hearing, that a licensee has violated any provision of  
2 this Act or any rule or regulation issued pursuant  
3 thereto and in effect for 30 days prior to such  
4 violation.

5 In lieu of suspending or revoking a license, the  
6 commission may impose a fine, upon the State commission's  
7 determination and notice after hearing, that a licensee  
8 has violated any provision of this Act or any rule or  
9 regulation issued pursuant thereto and in effect for 30  
10 days prior to such violation. In instances other than  
11 actions taken pursuant to a violation of Section 6-3,  
12 6-5, or 6-9, the State Commission may suspend or revoke a  
13 licensee's license or impose a fine upon a licensee only  
14 if the appropriate local liquor control commissioner did  
15 not revoke or suspend the licensee's license or impose a  
16 fine upon the licensee. The fine imposed under this  
17 paragraph may not exceed \$500 for each violation. Each  
18 day that the activity, which gave rise to the original  
19 fine, continues is a separate violation. The maximum  
20 fine that may be levied against any licensee, for the  
21 period of the license, shall not exceed \$20,000. The  
22 maximum penalty that may be imposed on a licensee for  
23 selling a bottle of alcoholic liquor with a foreign  
24 object in it or serving from a bottle of alcoholic liquor  
25 with a foreign object in it shall be the destruction of  
26 that bottle of alcoholic liquor for the first 10 bottles  
27 so sold or served from by the licensee. For the eleventh  
28 bottle of alcoholic liquor and for each third bottle  
29 thereafter sold or served from by the licensee with a  
30 foreign object in it, the maximum penalty that may be  
31 imposed on the licensee is the destruction of the bottle  
32 of alcoholic liquor and a fine of up to \$50.

33 (2) To adopt such rules and regulations consistent  
34 with the provisions of this Act which shall be necessary

1 to carry on its functions and duties to the end that the  
2 health, safety and welfare of the People of the State of  
3 Illinois shall be protected and temperance in the  
4 consumption of alcoholic liquors shall be fostered and  
5 promoted and to distribute copies of such rules and  
6 regulations to all licensees affected thereby.

7 (3) To call upon other administrative departments  
8 of the State, county and municipal governments, county  
9 and city police departments and upon prosecuting officers  
10 for such information and assistance as it deems necessary  
11 in the performance of its duties.

12 (4) To recommend to local commissioners rules and  
13 regulations, not inconsistent with the law, for the  
14 distribution and sale of alcoholic liquors throughout the  
15 State.

16 (5) To inspect, or cause to be inspected, any  
17 premises in this State where alcoholic liquors are  
18 manufactured, distributed, warehoused, or sold.

19 (5.1) Upon receipt of a complaint or upon having  
20 knowledge that any person is engaged in business as a  
21 manufacturer, importing distributor, distributor, or  
22 retailer without a license or valid license, to notify  
23 the local liquor authority, file a complaint with the  
24 State's Attorney's Office of the county where the  
25 incident occurred, or initiate an investigation with the  
26 appropriate law enforcement officials.

27 (5.2) To issue a cease and desist notice to persons  
28 shipping alcoholic liquor into this State from a point  
29 outside of this State if the shipment is in violation of  
30 this Act.

31 (5.3) To receive complaints from licensees, local  
32 officials, law enforcement agencies, organizations, and  
33 persons stating that any licensee has been or is  
34 violating any provision of this Act or the rules and

1 regulations issued pursuant to this Act. Such complaints  
2 shall be in writing, signed and sworn to by the person  
3 making the complaint, and shall state with specificity  
4 the facts in relation to the alleged violation. If the  
5 Commission has reasonable grounds to believe that the  
6 complaint substantially alleges a violation of this Act  
7 or rules and regulations adopted pursuant to this Act, it  
8 shall conduct an investigation. If, after conducting an  
9 investigation, the Commission is satisfied that the  
10 alleged violation did occur, it shall proceed with  
11 disciplinary action against the licensee as provided in  
12 this Act.

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

19 (7) The commission shall establish uniform systems  
20 of accounts to be kept by all retail licensees having  
21 more than 4 employees, and for this purpose the  
22 commission may classify all retail licensees having more  
23 than 4 employees and establish a uniform system of  
24 accounts for each class and prescribe the manner in which  
25 such accounts shall be kept. The commission may also  
26 prescribe the forms of accounts to be kept by all retail  
27 licensees having more than 4 employees, including but not  
28 limited to accounts of earnings and expenses and any  
29 distribution, payment, or other distribution of earnings  
30 or assets, and any other forms, records and memoranda  
31 which in the judgment of the commission may be necessary  
32 or appropriate to carry out any of the provisions of this  
33 Act, including but not limited to such forms, records and  
34 memoranda as will readily and accurately disclose at all

1 times the beneficial ownership of such retail licensed  
2 business. The accounts, forms, records and memoranda  
3 shall be available at all reasonable times for inspection  
4 by authorized representatives of the State commission or  
5 by any local liquor control commissioner or his or her  
6 authorized representative. The commission, may, from time  
7 to time, alter, amend or repeal, in whole or in part, any  
8 uniform system of accounts, or the form and manner of  
9 keeping accounts.

10 (8) In the conduct of any hearing authorized to be  
11 held by the commission, to appoint, at the commission's  
12 discretion, hearing officers to conduct hearings  
13 involving complex issues or issues that will require a  
14 protracted period of time to resolve, to examine, or  
15 cause to be examined, under oath, any licensee, and to  
16 examine or cause to be examined the books and records of  
17 such licensee; to hear testimony and take proof material  
18 for its information in the discharge of its duties  
19 hereunder; to administer or cause to be administered  
20 oaths; for any such purpose to issue subpoena or  
21 subpoenas to require the attendance of witnesses and the  
22 production of books, which shall be effective in any part  
23 of this State, and to adopt rules to implement its powers  
24 under this paragraph (8).

25 Any Circuit Court may by order duly entered, require  
26 the attendance of witnesses and the production of  
27 relevant books subpoenaed by the State commission and the  
28 court may compel obedience to its order by proceedings  
29 for contempt.

30 (9) To investigate the administration of laws in  
31 relation to alcoholic liquors in this and other states  
32 and any foreign countries, and to recommend from time to  
33 time to the Governor and through him or her to the  
34 legislature of this State, such amendments to this Act,

1 if any, as it may think desirable and as will serve to  
2 further the general broad purposes contained in Section  
3 1-2 hereof.

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

9 (11) To develop industry educational programs  
10 related to responsible serving and selling, particularly  
11 in the areas of overserving consumers and illegal  
12 underage purchasing and consumption of alcoholic  
13 beverages.

14 (11.1) To license persons providing education and  
15 training to alcohol beverage sellers and servers under  
16 the Beverage Alcohol Sellers and Servers Education and  
17 Training (BASSET) programs and to develop and administer  
18 a public awareness program in Illinois to reduce or  
19 eliminate the illegal purchase and consumption of  
20 alcoholic beverage products by persons under the age of  
21 21. Application for a license shall be made on forms  
22 provided by the State Commission.

23 (12) To develop and maintain a repository of  
24 license and regulatory information.

25 (13) On or before January 15, 1994, the Commission  
26 shall issue a written report to the Governor and General  
27 Assembly that is to be based on a comprehensive study of  
28 the impact on and implications for the State of Illinois  
29 of Section 1926 of the Federal ADAMHA Reorganization Act  
30 of 1992 (Public Law 102-321). This study shall address  
31 the extent to which Illinois currently complies with the  
32 provisions of P.L. 102-321 and the rules promulgated  
33 pursuant thereto.

34 As part of its report, the Commission shall provide

1 the following essential information:

2 (i) the number of retail distributors of  
3 tobacco products, by type and geographic area, in  
4 the State;

5 (ii) the number of reported citations and  
6 successful convictions, categorized by type and  
7 location of retail distributor, for violation of the  
8 Sale of Tobacco to Minors Act and the Smokeless  
9 Tobacco Limitation Act;

10 (iii) the extent and nature of organized  
11 educational and governmental activities that are  
12 intended to promote, encourage or otherwise secure  
13 compliance with any Illinois laws that prohibit the  
14 sale or distribution of tobacco products to minors;  
15 and

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

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

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

29 The Commission may contract with the Food and Drug  
30 Administration of the U.S. Department of Health and Human  
31 Services to conduct unannounced investigations of Illinois  
32 tobacco vendors to determine compliance with federal laws  
33 relating to the illegal sale of cigarettes and smokeless  
34 tobacco products to persons under the age of 18.

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

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

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

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

14                   (iii) the number of reported violations, the number  
15 of cease and desist notices issued by the Commission, the  
16 number of notices of violations issued to the Department  
17 of 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.)".