



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2290

Introduced 1/28/2004, by Denny Jacobs

SYNOPSIS AS INTRODUCED:

235 ILCS 5/3-12

from Ch. 43, par. 108

Amends the Liquor Control Act of 1934. Provides that, with certain exceptions, the Illinois Liquor Control Commission may revoke or suspend a licensee's license or impose a fine upon a licensee for a violation only if the applicable local liquor control commissioner has not revoked or suspended the licensee's license or imposed a fine upon the licensee for the violation. Provides that, for certain violations of the Act, the Illinois Liquor Control Commission may impose a fine that, when combined with the amount of any fine imposed by the appropriate local liquor control commissioner, equals up to \$250.

LRB093 19622 LRD 45363 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to alcohol.

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 3-12 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.

25 In lieu of suspending or revoking a license, the
26 commission may impose a fine, upon the State commission's
27 determination and notice after hearing, that a licensee has
28 violated any provision of this Act or any rule or
29 regulation issued pursuant thereto and in effect for 30
30 days prior to such violation. In instances other than
31 actions taken pursuant to a violation of Section 6-3, 6-5,
32 or 6-9, the State Commission may suspend or revoke a

1 licensee's license or impose a fine upon a licensee only if
2 the appropriate local liquor control commissioner did not
3 revoke or suspend the licensee's license or impose a fine
4 upon the licensee. For a violation of Section 6-16, the
5 State Commission may impose a fine not to exceed \$250 if
6 the appropriate local liquor control commissioner did not
7 take any action. If the local liquor control commissioner
8 issued a fine of less than \$250, the State Commission may
9 impose an additional fine to make the total fine from the
10 appropriate local liquor control commissioner and the
11 State Commission equal up to \$250. For multiple violations
12 of Section 6-16 within a 24-month period, the maximum fine
13 shall be increased \$250 for each violation. The fine
14 imposed under this paragraph may not exceed \$500 for each
15 violation. Each day that the activity, which gave rise to
16 the original fine, continues is a separate violation. The
17 maximum fine that may be levied against any licensee, for
18 the period of the license, shall not exceed \$20,000. The
19 maximum penalty that may be imposed on a licensee for
20 selling a bottle of alcoholic liquor with a foreign object
21 in it or serving from a bottle of alcoholic liquor with a
22 foreign object in it shall be the destruction of that
23 bottle of alcoholic liquor for the first 10 bottles so sold
24 or served from by the licensee. For the eleventh bottle of
25 alcoholic liquor and for each third bottle thereafter sold
26 or served from by the licensee with a foreign object in it,
27 the maximum penalty that may be imposed on the licensee is
28 the destruction of the bottle of alcoholic liquor and a
29 fine of up to \$50.

30 (2) To adopt such rules and regulations consistent with
31 the provisions of this Act which shall be necessary to
32 carry on its functions and duties to the end that the
33 health, safety and welfare of the People of the State of
34 Illinois shall be protected and temperance in the
35 consumption of alcoholic liquors shall be fostered and
36 promoted and to distribute copies of such rules and

1 regulations to all licensees affected thereby.

2 (3) To call upon other administrative departments of
3 the State, county and municipal governments, county and
4 city police departments and upon prosecuting officers for
5 such information and assistance as it deems necessary in
6 the performance of its duties.

7 (4) To recommend to local commissioners rules and
8 regulations, not inconsistent with the law, for the
9 distribution and sale of alcoholic liquors throughout the
10 State.

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

14 (5.1) Upon receipt of a complaint or upon having
15 knowledge that any person is engaged in business as a
16 manufacturer, importing distributor, distributor, or
17 retailer without a license or valid license, to notify the
18 local liquor authority, file a complaint with the State's
19 Attorney's Office of the county where the incident
20 occurred, or initiate an investigation with the
21 appropriate law enforcement officials.

22 (5.2) To issue a cease and desist notice to persons
23 shipping alcoholic liquor into this State from a point
24 outside of this State if the shipment is in violation of
25 this Act.

26 (5.3) To receive complaints from licensees, local
27 officials, law enforcement agencies, organizations, and
28 persons stating that any licensee has been or is violating
29 any provision of this Act or the rules and regulations
30 issued pursuant to this Act. Such complaints shall be in
31 writing, signed and sworn to by the person making the
32 complaint, and shall state with specificity the facts in
33 relation to the alleged violation. If the Commission has
34 reasonable grounds to believe that the complaint
35 substantially alleges a violation of this Act or rules and
36 regulations adopted pursuant to this Act, it shall conduct

1 an investigation. If, after conducting an investigation,
2 the Commission is satisfied that the alleged violation did
3 occur, it shall proceed with disciplinary action against
4 the licensee as provided in this Act.

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

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

35 (8) In the conduct of any hearing authorized to be held
36 by the commission, to appoint, at the commission's

1 discretion, hearing officers to conduct hearings involving
2 complex issues or issues that will require a protracted
3 period of time to resolve, to examine, or cause to be
4 examined, under oath, any licensee, and to examine or cause
5 to be examined the books and records of such licensee; to
6 hear testimony and take proof material for its information
7 in the discharge of its duties hereunder; to administer or
8 cause to be administered oaths; for any such purpose to
9 issue subpoena or subpoenas to require the attendance of
10 witnesses and the production of books, which shall be
11 effective in any part of this State, and to adopt rules to
12 implement its powers under this paragraph (8).

13 Any Circuit Court may by order duly entered, require
14 the attendance of witnesses and the production of relevant
15 books subpoenaed by the State commission and the court may
16 compel obedience to its order by proceedings for contempt.

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

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

29 (11) To develop industry educational programs related
30 to responsible serving and selling, particularly in the
31 areas of overserving consumers and illegal underage
32 purchasing and consumption of alcoholic beverages.

33 (11.1) To license persons providing education and
34 training to alcohol beverage sellers and servers under the
35 Beverage Alcohol Sellers and Servers Education and
36 Training (BASSET) programs and to develop and administer a

1 public awareness program in Illinois to reduce or eliminate
2 the illegal purchase and consumption of alcoholic beverage
3 products by persons under the age of 21. Application for a
4 license shall be made on forms provided by the State
5 Commission.

6 (12) To develop and maintain a repository of license
7 and regulatory information.

8 (13) On or before January 15, 1994, the Commission
9 shall issue a written report to the Governor and General
10 Assembly that is to be based on a comprehensive study of
11 the impact on and implications for the State of Illinois of
12 Section 1926 of the Federal ADAMHA Reorganization Act of
13 1992 (Public Law 102-321). This study shall address the
14 extent to which Illinois currently complies with the
15 provisions of P.L. 102-321 and the rules promulgated
16 pursuant thereto.

17 As part of its report, the Commission shall provide the
18 following essential information:

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

21 (ii) the number of reported citations and
22 successful convictions, categorized by type and
23 location of retail distributor, for violation of the
24 Sale of Tobacco to Minors Act and the Smokeless Tobacco
25 Limitation Act;

26 (iii) the extent and nature of organized
27 educational and governmental activities that are
28 intended to promote, encourage or otherwise secure
29 compliance with any Illinois laws that prohibit the
30 sale or distribution of tobacco products to minors; and

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

33 To obtain the data necessary to comply with the provisions
34 of P.L. 102-321 and the requirements of this report, the
35 Commission shall conduct random, unannounced inspections of a
36 geographically and scientifically representative sample of the

1 State's retail tobacco distributors.

2 The Commission shall consult with the Department of Public
3 Health, the Department of Human Services, the Illinois State
4 Police and any other executive branch agency, and private
5 organizations that may have information relevant to this
6 report.

7 The Commission may contract with the Food and Drug
8 Administration of the U.S. Department of Health and Human
9 Services to conduct unannounced investigations of Illinois
10 tobacco vendors to determine compliance with federal laws
11 relating to the illegal sale of cigarettes and smokeless
12 tobacco products to persons under the age of 18.

13 (b) On or before April 30, 1999, the Commission shall
14 present a written report to the Governor and the General
15 Assembly that shall be based on a study of the impact of this
16 amendatory Act of 1998 on the business of soliciting, selling,
17 and shipping alcoholic liquor from outside of this State
18 directly to residents of this State.

19 As part of its report, the Commission shall provide the
20 following information:

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

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

25 (iii) the number of reported violations, the number of
26 cease and desist notices issued by the Commission, the
27 number of notices of violations issued to the Department of
28 Revenue, and the number of notices and complaints of
29 violations to law enforcement officials.

30 (Source: P.A. 91-553, eff. 8-14-99; 91-922, eff. 7-7-00;
31 92-378, eff. 8-16-01; 92-813, eff. 8-21-02.)