

**HB0686**



**94TH GENERAL ASSEMBLY**

**State of Illinois**

**2005 and 2006**

**HB0686**

Introduced 2/1/2005, by Rep. Patricia R. Bellock

**SYNOPSIS AS INTRODUCED:**

235 ILCS 5/3-12

from Ch. 43, par. 108

235 ILCS 5/6-33 new

Amends the Liquor Control Act of 1934. Prohibits the sale and use of alcohol without liquid machines without the approval of the Illinois Liquor Control Commission. Effective immediately.

LRB094 05936 LJB 35991 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning 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 3-12 and by adding Section 6-33 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 may 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          (12.1) To receive and approve applications for use or  
34          sale of alcohol without liquid machines.

35          (13) On or before January 15, 1994, the Commission  
36          shall issue a written report to the Governor and General

1 Assembly that is to be based on a comprehensive study of  
2 the impact on and implications for the State of Illinois of  
3 Section 1926 of the Federal ADAMHA Reorganization Act of  
4 1992 (Public Law 102-321). This study shall address the  
5 extent to which Illinois currently complies with the  
6 provisions of P.L. 102-321 and the rules promulgated  
7 pursuant thereto.

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

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

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

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

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

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

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

34 The Commission may contract with the Food and Drug  
35 Administration of the U.S. Department of Health and Human  
36 Services to conduct unannounced investigations of Illinois

1 tobacco vendors to determine compliance with federal laws  
2 relating to the illegal sale of cigarettes and smokeless  
3 tobacco products to persons under the age of 18.

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

10 As part of its report, the Commission shall provide the  
11 following information:

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

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

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

21 (Source: P.A. 92-378, eff. 8-16-01; 92-813, eff. 8-21-02;  
22 93-1057, eff. 12-2-04.)

23 (235 ILCS 5/6-33 new)

24 Sec. 6-33. Alcohol without liquid machines.

25 (a) No person shall bring into this State for use or sale  
26 any alcohol without liquid machine unless an application  
27 submitted pursuant to subsection (b) is approved by the State  
28 Commission.

29 (b) Any person may file with the State Commission an  
30 application for premarket approval of an alcohol without liquid  
31 machine. The application shall be submitted in a manner and  
32 containing the information that the State Commission may  
33 require.

34 (c) Upon receipt of an application submitted pursuant to  
35 subsection (b), the State Commission shall:



1           (1) issue an order approving the application if the  
2           person submitting the application demonstrates to the  
3           State Commission's satisfaction that the alcohol without  
4           liquid machine is safe; or

5           (2) deny approval of the application if the person  
6           submitting the application fails to demonstrate to the  
7           State Commission's satisfaction that the alcohol without  
8           liquid machine is safe.

9           (d) The State Commission may issue an order withdrawing  
10          approval of an application submitted pursuant to subsection (b)  
11          if the State Commission finds that the alcohol without liquid  
12          machine is unsafe.

13          (e) For purposes of this Section, "alcohol without liquid  
14          machine" means a device designed or marketed for the purposes  
15          of mixing alcohol with oxygen or another gas to produce a mist  
16          for inhalation for recreational purposes.

17           Section 99. Effective date. This Act takes effect upon  
18           becoming law.