



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1289

Introduced 02/09/05, by Rep. Dan Reitz

SYNOPSIS AS INTRODUCED:

235 ILCS 5/8-2

from Ch. 43, par. 159

Amends the Liquor Control Act of 1934. Allows a manufacturer or importing distributor that is a prior continuous compliance taxpayer and that becomes a successor of a manufacturer or importing distributor to be deemed a prior continuous compliance taxpayer with respect to the acquired manufacturer or importing distributor. Effective immediately.

LRB094 07561 LJB 37729 b

FISCAL NOTE ACT
MAY APPLY

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 8-2 as follows:

6 (235 ILCS 5/8-2) (from Ch. 43, par. 159)

7 Sec. 8-2. It is the duty of each manufacturer with respect
8 to alcoholic liquor produced or imported by such manufacturer,
9 or purchased tax-free by such manufacturer from another
10 manufacturer or importing distributor, and of each importing
11 distributor as to alcoholic liquor purchased by such importing
12 distributor from foreign importers or from anyone from any
13 point in the United States outside of this State or purchased
14 tax-free from another manufacturer or importing distributor,
15 to pay the tax imposed by Section 8-1 to the Department of
16 Revenue on or before the 15th day of the calendar month
17 following the calendar month in which such alcoholic liquor is
18 sold or used by such manufacturer or by such importing
19 distributor other than in an authorized tax-free manner or to
20 pay that tax electronically as provided in this Section.

21 Each manufacturer and each importing distributor shall
22 make payment under one of the following methods: (1) on or
23 before the 15th day of each calendar month, file in person or
24 by United States first-class mail, postage pre-paid, with the
25 Department of Revenue, on forms prescribed and furnished by the
26 Department, a report in writing in such form as may be required
27 by the Department in order to compute, and assure the accuracy
28 of, the tax due on all taxable sales and uses of alcoholic
29 liquor occurring during the preceding month. Payment of the tax
30 in the amount disclosed by the report shall accompany the
31 report or, (2) on or before the 15th day of each calendar
32 month, electronically file with the Department of Revenue, on

1 forms prescribed and furnished by the Department, an electronic
2 report in such form as may be required by the Department in
3 order to compute, and assure the accuracy of, the tax due on
4 all taxable sales and uses of alcoholic liquor occurring during
5 the preceding month. An electronic payment of the tax in the
6 amount disclosed by the report shall accompany the report. A
7 manufacturer or distributor who files an electronic report and
8 electronically pays the tax imposed pursuant to Section 8-1 to
9 the Department of Revenue on or before the 15th day of the
10 calendar month following the calendar month in which such
11 alcoholic liquor is sold or used by that manufacturer or
12 importing distributor other than in an authorized tax-free
13 manner shall pay to the Department the amount of the tax
14 imposed pursuant to Section 8-1, less a discount which is
15 allowed to reimburse the manufacturer or importing distributor
16 for the expenses incurred in keeping and maintaining records,
17 preparing and filing the electronic returns, remitting the tax,
18 and supplying data to the Department upon request.

19 The discount shall be in an amount as follows:

20 (1) For original returns due on or after January 1,
21 2003 through September 30, 2003, the discount shall be
22 1.75% or \$1,250 per return, whichever is less;

23 (2) For original returns due on or after October 1,
24 2003 through September 30, 2004, the discount shall be 2%
25 or \$3,000 per return, whichever is less; and

26 (3) For original returns due on or after October 1,
27 2004, the discount shall be 2% or \$2,000 per return,
28 whichever is less.

29 The Department may, if it deems it necessary in order to
30 insure the payment of the tax imposed by this Article, require
31 returns to be made more frequently than and covering periods of
32 less than a month. Such return shall contain such further
33 information as the Department may reasonably require.

34 It shall be presumed that all alcoholic liquors acquired or
35 made by any importing distributor or manufacturer have been
36 sold or used by him in this State and are the basis for the tax

1 imposed by this Article unless proven, to the satisfaction of
2 the Department, that such alcoholic liquors are (1) still in
3 the possession of such importing distributor or manufacturer,
4 or (2) prior to the termination of possession have been lost by
5 theft or through unintentional destruction, or (3) that such
6 alcoholic liquors are otherwise exempt from taxation under this
7 Act.

8 The Department may require any foreign importer to file
9 monthly information returns, by the 15th day of the month
10 following the month which any such return covers, if the
11 Department determines this to be necessary to the proper
12 performance of the Department's functions and duties under this
13 Act. Such return shall contain such information as the
14 Department may reasonably require.

15 Every manufacturer and importing distributor shall also
16 file, with the Department, a bond in an amount not less than
17 \$1,000 and not to exceed \$100,000 on a form to be approved by,
18 and with a surety or sureties satisfactory to, the Department.
19 Such bond shall be conditioned upon the manufacturer or
20 importing distributor paying to the Department all monies
21 becoming due from such manufacturer or importing distributor
22 under this Article. The Department shall fix the penalty of
23 such bond in each case, taking into consideration the amount of
24 alcoholic liquor expected to be sold and used by such
25 manufacturer or importing distributor, and the penalty fixed by
26 the Department shall be sufficient, in the Department's
27 opinion, to protect the State of Illinois against failure to
28 pay any amount due under this Article, but the amount of the
29 penalty fixed by the Department shall not exceed twice the
30 amount of tax liability of a monthly return, nor shall the
31 amount of such penalty be less than \$1,000. The Department
32 shall notify the Commission of the Department's approval or
33 disapproval of any such manufacturer's or importing
34 distributor's bond, or of the termination or cancellation of
35 any such bond, or of the Department's direction to a
36 manufacturer or importing distributor that he must file

1 additional bond in order to comply with this Section. The
2 Commission shall not issue a license to any applicant for a
3 manufacturer's or importing distributor's license unless the
4 Commission has received a notification from the Department
5 showing that such applicant has filed a satisfactory bond with
6 the Department hereunder and that such bond has been approved
7 by the Department. Failure by any licensed manufacturer or
8 importing distributor to keep a satisfactory bond in effect
9 with the Department or to furnish additional bond to the
10 Department, when required hereunder by the Department to do so,
11 shall be grounds for the revocation or suspension of such
12 manufacturer's or importing distributor's license by the
13 Commission. If a manufacturer or importing distributor fails to
14 pay any amount due under this Article, his bond with the
15 Department shall be deemed forfeited, and the Department may
16 institute a suit in its own name on such bond.

17 After notice and opportunity for a hearing the State
18 Commission may revoke or suspend the license of any
19 manufacturer or importing distributor who fails to comply with
20 the provisions of this Section. Notice of such hearing and the
21 time and place thereof shall be in writing and shall contain a
22 statement of the charges against the licensee. Such notice may
23 be given by United States registered or certified mail with
24 return receipt requested, addressed to the person concerned at
25 his last known address and shall be given not less than 7 days
26 prior to the date fixed for the hearing. An order revoking or
27 suspending a license under the provisions of this Section may
28 be reviewed in the manner provided in Section 7-10 of this Act.
29 No new license shall be granted to a person whose license has
30 been revoked for a violation of this Section or, in case of
31 suspension, shall such suspension be terminated until he has
32 paid to the Department all taxes and penalties which he owes
33 the State under the provisions of this Act.

34 Every manufacturer or importing distributor who has, as
35 verified by the Department, continuously complied with the
36 conditions of the bond under this Act for a period of 2 years

1 shall be considered to be a prior continuous compliance
2 taxpayer. In determining the consecutive period of time for
3 qualification as a prior continuous compliance taxpayer, any
4 consecutive period of time of qualifying compliance
5 immediately prior to the effective date of this amendatory Act
6 of 1987 shall be credited to any manufacturer or importing
7 distributor.

8 A manufacturer or importing distributor that is a prior
9 continuous compliance taxpayer under this Section and becomes a
10 successor as the result of an acquisition, merger, or
11 consolidation of a manufacturer or importing distributor shall
12 be deemed to be a prior continuous compliance taxpayer with
13 respect to the acquired, merged, or consolidated entity.

14 Every prior continuous compliance taxpayer shall be exempt
15 from the bond requirements of this Act until the Department has
16 determined the taxpayer to be delinquent in the filing of any
17 return or deficient in the payment of any tax under this Act.
18 Any taxpayer who fails to pay an admitted or established
19 liability under this Act may also be required to post bond or
20 other acceptable security with the Department guaranteeing the
21 payment of such admitted or established liability.

22 The Department shall discharge any surety and shall release
23 and return any bond or security deposit assigned, pledged or
24 otherwise provided to it by a taxpayer under this Section
25 within 30 days after: (1) such taxpayer becomes a prior
26 continuous compliance taxpayer; or (2) such taxpayer has ceased
27 to collect receipts on which he is required to remit tax to the
28 Department, has filed a final tax return, and has paid to the
29 Department an amount sufficient to discharge his remaining tax
30 liability as determined by the Department under this Act.

31 (Source: P.A. 92-393, eff. 1-1-03; 93-22, eff. 6-20-03.)

32 Section 99. Effective date. This Act takes effect upon
33 becoming law.