

HB5842



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5842

Introduced 2/10/2010, by Rep. Daniel J. Burke

SYNOPSIS AS INTRODUCED:

235 ILCS 5/6-11

Amends the Liquor Control Act of 1934. Provides for the issuance or renewal of a retail license authorizing the sale of alcoholic liquor at a premises located within a municipality in excess of 1,000,000 inhabitants and within 100 feet of a school if certain conditions are met. Effective immediately.

LRB096 16933 ASK 32246 b

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 6-11 as follows:

6 (235 ILCS 5/6-11)

7 Sec. 6-11. Sale near churches, schools, and hospitals.

8 (a) No license shall be issued for the sale at retail of
9 any alcoholic liquor within 100 feet of any church, school
10 other than an institution of higher learning, hospital, home
11 for aged or indigent persons or for veterans, their spouses or
12 children or any military or naval station, provided, that this
13 prohibition shall not apply to hotels offering restaurant
14 service, regularly organized clubs, or to restaurants, food
15 shops or other places where sale of alcoholic liquors is not
16 the principal business carried on if the place of business so
17 exempted is not located in a municipality of more than 500,000
18 persons, unless required by local ordinance; nor to the renewal
19 of a license for the sale at retail of alcoholic liquor on
20 premises within 100 feet of any church or school where the
21 church or school has been established within such 100 feet
22 since the issuance of the original license. In the case of a
23 church, the distance of 100 feet shall be measured to the

1 nearest part of any building used for worship services or
2 educational programs and not to property boundaries.

3 (b) Nothing in this Section shall prohibit the issuance of
4 a retail license authorizing the sale of alcoholic liquor to a
5 restaurant, the primary business of which is the sale of goods
6 baked on the premises if (i) the restaurant is newly
7 constructed and located on a lot of not less than 10,000 square
8 feet, (ii) the restaurant costs at least \$1,000,000 to
9 construct, (iii) the licensee is the titleholder to the
10 premises and resides on the premises, and (iv) the construction
11 of the restaurant is completed within 18 months of the
12 effective date of this amendatory Act of 1998.

13 (c) Nothing in this Section shall prohibit the issuance of
14 a retail license authorizing the sale of alcoholic liquor
15 incidental to a restaurant if (1) the primary business of the
16 restaurant consists of the sale of food where the sale of
17 liquor is incidental to the sale of food and the applicant is a
18 completely new owner of the restaurant, (2) the immediately
19 prior owner or operator of the premises where the restaurant is
20 located operated the premises as a restaurant and held a valid
21 retail license authorizing the sale of alcoholic liquor at the
22 restaurant for at least part of the 24 months before the change
23 of ownership, and (3) the restaurant is located 75 or more feet
24 from a school.

25 (d) In the interest of further developing Illinois' economy
26 in the area of commerce, tourism, convention, and banquet

1 business, nothing in this Section shall prohibit issuance of a
2 retail license authorizing the sale of alcoholic beverages to a
3 restaurant, banquet facility, grocery store, or hotel having
4 not fewer than 150 guest room accommodations located in a
5 municipality of more than 500,000 persons, notwithstanding the
6 proximity of such hotel, restaurant, banquet facility, or
7 grocery store to any church or school, if the licensed premises
8 described on the license are located within an enclosed mall or
9 building of a height of at least 6 stories, or 60 feet in the
10 case of a building that has been registered as a national
11 landmark, or in a grocery store having a minimum of 56,010
12 square feet of floor space in a single story building in an
13 open mall of at least 3.96 acres that is adjacent to a public
14 school that opened as a boys technical high school in 1934, or
15 in a grocery store having a minimum of 31,000 square feet of
16 floor space in a single story building located a distance of
17 more than 90 feet but less than 100 feet from a high school
18 that opened in 1928 as a junior high school and became a senior
19 high school in 1933, and in each of these cases if the sale of
20 alcoholic liquors is not the principal business carried on by
21 the licensee.

22 For purposes of this Section, a "banquet facility" is any
23 part of a building that caters to private parties and where the
24 sale of alcoholic liquors is not the principal business.

25 (e) Nothing in this Section shall prohibit the issuance of
26 a license to a church or private school to sell at retail

1 alcoholic liquor if any such sales are limited to periods when
2 groups are assembled on the premises solely for the promotion
3 of some common object other than the sale or consumption of
4 alcoholic liquors.

5 (f) Nothing in this Section shall prohibit a church or
6 church affiliated school located in a home rule municipality or
7 in a municipality with 75,000 or more inhabitants from locating
8 within 100 feet of a property for which there is a preexisting
9 license to sell alcoholic liquor at retail. In these instances,
10 the local zoning authority may, by ordinance adopted
11 simultaneously with the granting of an initial special use
12 zoning permit for the church or church affiliated school,
13 provide that the 100-foot restriction in this Section shall not
14 apply to that church or church affiliated school and future
15 retail liquor licenses.

16 (g) Nothing in this Section shall prohibit the issuance of
17 a retail license authorizing the sale of alcoholic liquor at
18 premises within 100 feet, but not less than 90 feet, of a
19 public school if (1) the premises have been continuously
20 licensed to sell alcoholic liquor for a period of at least 50
21 years, (2) the premises are located in a municipality having a
22 population of over 500,000 inhabitants, (3) the licensee is an
23 individual who is a member of a family that has held the
24 previous 3 licenses for that location for more than 25 years,
25 (4) the principal of the school and the alderman of the ward in
26 which the school is located have delivered a written statement

1 to the local liquor control commissioner stating that they do
2 not object to the issuance of a license under this subsection
3 (g), and (5) the local liquor control commissioner has received
4 the written consent of a majority of the registered voters who
5 live within 200 feet of the premises.

6 (h) Notwithstanding any provision of this Section to the
7 contrary, nothing in this Section shall prohibit the issuance
8 or renewal of a license authorizing the sale of alcoholic
9 liquor within premises and at an outdoor patio area attached to
10 premises that are located in a municipality with a population
11 in excess of 300,000 inhabitants and that are within 100 feet
12 of a church if:

13 (1) the sale of alcoholic liquor at the premises is
14 incidental to the sale of food,

15 (2) the sale of liquor is not the principal business
16 carried on by the licensee at the premises,

17 (3) the premises are less than 1,000 square feet,

18 (4) the premises are owned by the University of
19 Illinois,

20 (5) the premises are immediately adjacent to property
21 owned by a church and are not less than 20 nor more than 40
22 feet from the church space used for worship services, and

23 (6) the principal religious leader at the place of
24 worship has indicated his or her support for the issuance
25 of the license in writing.

26 (i) Notwithstanding any provision in this Section to the

1 contrary, nothing in this Section shall prohibit the issuance
2 or renewal of a license to sell alcoholic liquor at a premises
3 that is located within a municipality with a population in
4 excess of 300,000 inhabitants and is within 100 feet of a
5 church, synagogue, or other place of worship if:

6 (1) the primary entrance of the premises and the
7 primary entrance of the church, synagogue, or other place
8 of worship are at least 100 feet apart, on parallel
9 streets, and separated by an alley; and

10 (2) the principal religious leader at the place of
11 worship has not indicated his or her opposition to the
12 issuance or renewal of the license in writing.

13 (j) Notwithstanding any provision in this Section to the
14 contrary, nothing in this Section shall prohibit the issuance
15 of a retail license authorizing the sale of alcoholic liquor at
16 a theater that is within 100 feet of a church if (1) the church
17 owns the theater, (2) the church leases the theater to one or
18 more entities, and (3) the theater is used by at least 5
19 different not-for-profit theater groups.

20 (k) Notwithstanding any provision in this Section to the
21 contrary, nothing in this Section shall prohibit the issuance
22 or renewal of a license authorizing the sale of alcoholic
23 liquor at a premises that is located within a municipality with
24 a population in excess of 1,000,000 inhabitants and is within
25 100 feet of a school if:

26 (1) the primary entrance of the premises and the

1 primary entrance of the school are parallel, on different
2 streets, and separated by an alley;

3 (2) the southeast corner of the premises are at least
4 350 feet from the southwest corner of the school;

5 (3) the school was built in 1978;

6 (4) the sale of alcoholic liquor at the premises is
7 incidental to the sale of food;

8 (5) the sale of alcoholic liquor is not the principal
9 business carried on by the licensee at the premises;

10 (6) the applicant is the owner of the restaurant and
11 has held a valid license authorizing the sale of alcoholic
12 liquor for the business to be conducted on the premises at
13 a different location for more than 7 years; and

14 (7) the premises is at least 2,300 square feet and sits
15 on a lot that is between 6,100 and 6,150 square feet.

16 (1) Notwithstanding any provision in this Section to the
17 contrary, nothing in this Section shall prohibit the issuance
18 or renewal of a license authorizing the sale of alcoholic
19 liquor at a premises that is located within a municipality with
20 a population in excess of 1,000,000 inhabitants and is within
21 100 feet of a church or school if:

22 (1) the primary entrance of the premises and the
23 closest entrance of the church or school is at least 90
24 feet apart and no greater than 95 feet apart;

25 (2) the shortest distance between the premises and the
26 church or school is at least 80 feet apart and no greater

1 than 85 feet apart;

2 (3) the applicant is the owner of the restaurant and on
3 November 15, 2006 held a valid license authorizing the sale
4 of alcoholic liquor for the business to be conducted on the
5 premises for at least 14 different locations;

6 (4) the sale of alcoholic liquor at the premises is
7 incidental to the sale of food;

8 (5) the sale of alcoholic liquor is not the principal
9 business carried on by the licensee at the premises;

10 (6) the premises is at least 3,200 square feet and sits
11 on a lot that is between 7,150 and 7,200 square feet; and

12 (7) the principal religious leader at the place of
13 worship has not indicated his or her opposition to the
14 issuance or renewal of the license in writing.

15 (m) Notwithstanding any provision in this Section to the
16 contrary, nothing in this Section shall prohibit the issuance
17 or renewal of a license authorizing the sale of alcoholic
18 liquor at a premises that is located within a municipality with
19 a population in excess of 1,000,000 inhabitants and is within
20 100 feet of a church if:

21 (1) the premises and the church are perpendicular, and
22 the primary entrance of the premises faces South while the
23 primary entrance of the church faces West and the distance
24 between the two entrances is more than 100 feet;

25 (2) the shortest distance between the premises lot line
26 and the exterior wall of the church is at least 80 feet;

1 (3) the church was established at the current location
2 in 1916 and the present structure was erected in 1925;

3 (4) the premises is a single story, single use building
4 with at least 1,750 square feet and no more than 2,000
5 square feet;

6 (5) the sale of alcoholic liquor at the premises is
7 incidental to the sale of food;

8 (6) the sale of alcoholic liquor is not the principal
9 business carried on by the licensee at the premises; and

10 (7) the principal religious leader at the place of
11 worship has not indicated his or her opposition to the
12 issuance or renewal of the license in writing.

13 (n) Notwithstanding any provision in this Section to the
14 contrary, nothing in this Section shall prohibit the issuance
15 or renewal of a license authorizing the sale of alcoholic
16 liquor at a premises that is located within a municipality with
17 a population in excess of 1,000,000 inhabitants and is within
18 100 feet of a school if:

19 (1) the school is a City of Chicago School District 299
20 school;

21 (2) the school is located within subarea E of City of
22 Chicago Residential Business Planned Development Number
23 70;

24 (3) the sale of alcoholic liquor is not the principal
25 business carried on by the licensee on the premises;

26 (4) the sale of alcoholic liquor at the premises is

1 incidental to the sale of food; and

2 (5) the administration of City of Chicago School
3 District 299 has expressed, in writing, its support for the
4 issuance of the license.

5 (o) Notwithstanding any provision of this Section to the
6 contrary, nothing in this Section shall prohibit the issuance
7 or renewal of a retail license authorizing the sale of
8 alcoholic liquor at a premises that is located within a
9 municipality in excess of 1,000,000 inhabitants and within 100
10 feet of a church if:

11 (1) the sale of alcoholic liquor at the premises is
12 incidental to the sale of food;

13 (2) the sale of alcoholic liquor is not the principal
14 business carried on by the licensee at the premises;

15 (3) the premises is located on a street that runs
16 perpendicular to the street on which the church is located;

17 (4) the primary entrance of the premises is at least
18 100 feet from the primary entrance of the church;

19 (5) the shortest distance between any part of the
20 premises and any part of the church is at least 60 feet;

21 (6) the premises is between 3,600 and 4,000 square feet
22 and sits on a lot that is between 3,600 and 4,000 square
23 feet; and

24 (7) the premises was built in the year 1909.

25 For purposes of this subsection (o), "premises" means a
26 place of business together with a privately owned outdoor

1 location that is adjacent to the place of business.

2 (p) Notwithstanding any provision in this Section to the
3 contrary, nothing in this Section shall prohibit the issuance
4 or renewal of a license authorizing the sale of alcoholic
5 liquor at a premises that is located within a municipality with
6 a population in excess of 1,000,000 inhabitants and within 100
7 feet of a church if:

8 (1) the shortest distance between the backdoor of the
9 premises, which is used as an emergency exit, and the
10 church is at least 80 feet;

11 (2) the church was established at the current location
12 in 1889; and

13 (3) liquor has been sold on the premises since at least
14 1985.

15 (q) Notwithstanding any provision of this Section to the
16 contrary, nothing in this Section shall prohibit the issuance
17 or renewal of a license authorizing the sale of alcoholic
18 liquor within a premises that is located in a municipality with
19 a population in excess of 1,000,000 inhabitants and within 100
20 feet of a church-owned property if:

21 (1) the premises is located within a larger building
22 operated as a grocery store;

23 (2) the area of the premises does not exceed 720 square
24 feet and the area of the larger building exceeds 18,000
25 square feet;

26 (3) the larger building containing the premises is

1 within 100 feet of the nearest property line of a
2 church-owned property on which a church-affiliated school
3 is located;

4 (4) the sale of liquor is not the principal business
5 carried on within the larger building;

6 (5) the primary entrance of the larger building and the
7 premises and the primary entrance of the church-affiliated
8 school are on different, parallel streets, and the distance
9 between the 2 primary entrances is more than 100 feet;

10 (6) the larger building is separated from the
11 church-owned property and church-affiliated school by an
12 alley;

13 (7) the larger building containing the premises and the
14 church building front are on perpendicular streets and are
15 separated by a street; and

16 (8) (Blank).

17 (r) Notwithstanding any provision of this Section to the
18 contrary, nothing in this Section shall prohibit the issuance,
19 renewal, or maintenance of a license authorizing the sale of
20 alcoholic liquor incidental to the sale of food within a
21 restaurant established in a premises that is located in a
22 municipality with a population in excess of 1,000,000
23 inhabitants and within 100 feet of a church if:

24 (1) the primary entrance of the church and the primary
25 entrance of the restaurant are at least 100 feet apart;

26 (2) the restaurant has operated on the ground floor and

1 lower level of a multi-story, multi-use building for more
2 than 40 years;

3 (3) the primary business of the restaurant consists of
4 the sale of food where the sale of liquor is incidental to
5 the sale of food;

6 (4) the sale of alcoholic liquor is conducted primarily
7 in the below-grade level of the restaurant to which the
8 only public access is by a staircase located inside the
9 restaurant; and

10 (5) the restaurant has held a license authorizing the
11 sale of alcoholic liquor on the premises for more than 40
12 years.

13 (s) Notwithstanding any provision of this Section to the
14 contrary, nothing in this Section shall prohibit renewal of a
15 license authorizing the sale of alcoholic liquor at a premises
16 that is located within a municipality with a population more
17 than 5,000 and less than 10,000 and is within 100 feet of a
18 church if:

19 (1) the church was established at the location within
20 100 feet of the premises after a license for the sale of
21 alcoholic liquor at the premises was first issued;

22 (2) a license for sale of alcoholic liquor at the
23 premises was first issued before January 1, 2007; and

24 (3) a license for the sale of alcoholic liquor on the
25 premises has been continuously in effect since January 1,
26 2007, except for interruptions between licenses of no more

1 than 90 days.

2 (t) Notwithstanding any provision of this Section to the
3 contrary, nothing in this Section shall prohibit the issuance
4 or renewal of a license authorizing the sale of alcoholic
5 liquor incidental to the sale of food within a restaurant that
6 is established in a premises that is located in a municipality
7 with a population in excess of 1,000,000 inhabitants and within
8 100 feet of a school and a church if:

9 (1) the restaurant is located inside a five-story
10 building with over 16,800 square feet of commercial space;

11 (2) the area of the premises does not exceed 31,050
12 square feet;

13 (3) the area of the restaurant does not exceed 5,800
14 square feet;

15 (4) the building has no less than 78 condominium units;

16 (5) the construction of the building in which the
17 restaurant is located was completed in 2006;

18 (6) the building has 10 storefront properties, 3 of
19 which are used for the restaurant;

20 (7) the restaurant will open for business in 2010;

21 (8) the building is north of the school and separated
22 by an alley; and

23 (9) the principal religious leader of the church and
24 either the alderman of the ward in which the school is
25 located or the principal of the school have delivered a
26 written statement to the local liquor control commissioner

1 stating that he or she does not object to the issuance of a
2 license under this subsection (t).

3 (u) Notwithstanding any provision in this Section to the
4 contrary, nothing in this Section shall prohibit the issuance
5 or renewal of a license to sell alcoholic liquor at a premises
6 that is located within a municipality with a population in
7 excess of 1,000,000 inhabitants and within 100 feet of a school
8 if:

9 (1) the premises operates as a restaurant and has been
10 in operation since February 2008;

11 (2) the applicant is the owner of the premises;

12 (3) the sale of alcoholic liquor is incidental to the
13 sale of food;

14 (4) the sale of alcoholic liquor is not the principal
15 business carried on by the licensee on the premises;

16 (5) the premises occupy the first floor of a 3-story
17 building that is at least 90 years old;

18 (6) the rear lot of the school and the rear corner of
19 the building that the premises occupy are separated by an
20 alley;

21 (7) the distance from the southwest corner of the
22 property line of the school and the northeast corner of the
23 building that the premises occupy is at least 16 feet, 5
24 inches;

25 (8) the distance from the rear door of the premises to
26 the southwest corner of the property line of the school is

1 at least 93 feet;

2 (9) the school is a City of Chicago School District 299
3 school;

4 (10) the school's main structure was erected in 1902
5 and an addition was built to the main structure in 1959;
6 and

7 (11) the principal of the school and the alderman in
8 whose district the premises are located have expressed, in
9 writing, their support for the issuance of the license.

10 (Source: P.A. 95-331, eff. 8-21-07; 95-752, eff. 1-1-09;
11 96-283, eff. 8-11-09; 96-744, eff. 8-25-09; 96-851, eff.
12 12-23-09; 96-871, eff. 1-21-10; revised 1-25-10.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.