

# SB3348



## 96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3348

Introduced 2/10/2010, by Sen. Heather Steans

### SYNOPSIS AS INTRODUCED:

235 ILCS 5/5-1

from Ch. 43, par. 115

Amends the Liquor Control Act of 1934. Makes technical change in a provision concerning licensure under the Act.

LRB096 20500 ASK 36177 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 5-1 as follows:

6 (235 ILCS 5/5-1) (from Ch. 43, par. 115)

7 Sec. 5-1. Licenses issued by the ~~the~~ Illinois Liquor  
8 Control Commission shall be of the following classes:

- 9 (a) Manufacturer's license - Class 1. Distiller, Class 2.  
10 Rectifier, Class 3. Brewer, Class 4. First Class Wine  
11 Manufacturer, Class 5. Second Class Wine Manufacturer, Class 6.  
12 First Class Winemaker, Class 7. Second Class Winemaker, Class  
13 8. Limited Wine Manufacturer,
- 14 (b) Distributor's license,  
15 (c) Importing Distributor's license,  
16 (d) Retailer's license,  
17 (e) Special Event Retailer's license (not-for-profit),  
18 (f) Railroad license,  
19 (g) Boat license,  
20 (h) Non-Beverage User's license,  
21 (i) Wine-maker's premises license,  
22 (j) Airplane license,  
23 (k) Foreign importer's license,

- 1 (l) Broker's license,
- 2 (m) Non-resident dealer's license,
- 3 (n) Brew Pub license,
- 4 (o) Auction liquor license,
- 5 (p) Caterer retailer license,
- 6 (q) Special use permit license,
- 7 (r) Winery shipper's license.

8 No person, firm, partnership, corporation, or other legal  
9 business entity that is engaged in the manufacturing of wine  
10 may concurrently obtain and hold a wine-maker's license and a  
11 wine manufacturer's license.

12 (a) A manufacturer's license shall allow the manufacture,  
13 importation in bulk, storage, distribution and sale of  
14 alcoholic liquor to persons without the State, as may be  
15 permitted by law and to licensees in this State as follows:

16 Class 1. A Distiller may make sales and deliveries of  
17 alcoholic liquor to distillers, rectifiers, importing  
18 distributors, distributors and non-beverage users and to no  
19 other licensees.

20 Class 2. A Rectifier, who is not a distiller, as defined  
21 herein, may make sales and deliveries of alcoholic liquor to  
22 rectifiers, importing distributors, distributors, retailers  
23 and non-beverage users and to no other licensees.

24 Class 3. A Brewer may make sales and deliveries of beer to  
25 importing distributors, distributors, and to non-licensees,  
26 and to retailers provided the brewer obtains an importing

1 distributor's license or distributor's license in accordance  
2 with the provisions of this Act.

3 Class 4. A first class wine-manufacturer may make sales and  
4 deliveries of up to 50,000 gallons of wine to manufacturers,  
5 importing distributors and distributors, and to no other  
6 licensees.

7 Class 5. A second class Wine manufacturer may make sales  
8 and deliveries of more than 50,000 gallons of wine to  
9 manufacturers, importing distributors and distributors and to  
10 no other licensees.

11 Class 6. A first-class wine-maker's license shall allow the  
12 manufacture of up to 50,000 gallons of wine per year, and the  
13 storage and sale of such wine to distributors in the State and  
14 to persons without the State, as may be permitted by law. A  
15 person who, prior to the effective date of this amendatory Act  
16 of the 95th General Assembly, is a holder of a first-class  
17 wine-maker's license and annually produces more than 25,000  
18 gallons of its own wine and who distributes its wine to  
19 licensed retailers shall cease this practice on or before July  
20 1, 2008 in compliance with this amendatory Act of the 95th  
21 General Assembly.

22 Class 7. A second-class wine-maker's license shall allow  
23 the manufacture of between 50,000 and 150,000 gallons of wine  
24 per year, and the storage and sale of such wine to distributors  
25 in this State and to persons without the State, as may be  
26 permitted by law. A person who, prior to the effective date of

1 this amendatory Act of the 95th General Assembly, is a holder  
2 of a second-class wine-maker's license and annually produces  
3 more than 25,000 gallons of its own wine and who distributes  
4 its wine to licensed retailers shall cease this practice on or  
5 before July 1, 2008 in compliance with this amendatory Act of  
6 the 95th General Assembly.

7 Class 8. A limited wine-manufacturer may make sales and  
8 deliveries not to exceed 40,000 gallons of wine per year to  
9 distributors, and to non-licensees in accordance with the  
10 provisions of this Act.

11 (a-1) A manufacturer which is licensed in this State to  
12 make sales or deliveries of alcoholic liquor and which enlists  
13 agents, representatives, or individuals acting on its behalf  
14 who contact licensed retailers on a regular and continual basis  
15 in this State must register those agents, representatives, or  
16 persons acting on its behalf with the State Commission.

17 Registration of agents, representatives, or persons acting  
18 on behalf of a manufacturer is fulfilled by submitting a form  
19 to the Commission. The form shall be developed by the  
20 Commission and shall include the name and address of the  
21 applicant, the name and address of the manufacturer he or she  
22 represents, the territory or areas assigned to sell to or  
23 discuss pricing terms of alcoholic liquor, and any other  
24 questions deemed appropriate and necessary. All statements in  
25 the forms required to be made by law or by rule shall be deemed  
26 material, and any person who knowingly misstates any material

1 fact under oath in an application is guilty of a Class B  
2 misdemeanor. Fraud, misrepresentation, false statements,  
3 misleading statements, evasions, or suppression of material  
4 facts in the securing of a registration are grounds for  
5 suspension or revocation of the registration.

6 (b) A distributor's license shall allow the wholesale  
7 purchase and storage of alcoholic liquors and sale of alcoholic  
8 liquors to licensees in this State and to persons without the  
9 State, as may be permitted by law.

10 (c) An importing distributor's license may be issued to and  
11 held by those only who are duly licensed distributors, upon the  
12 filing of an application by a duly licensed distributor, with  
13 the Commission and the Commission shall, without the payment of  
14 any fee, immediately issue such importing distributor's  
15 license to the applicant, which shall allow the importation of  
16 alcoholic liquor by the licensee into this State from any point  
17 in the United States outside this State, and the purchase of  
18 alcoholic liquor in barrels, casks or other bulk containers and  
19 the bottling of such alcoholic liquors before resale thereof,  
20 but all bottles or containers so filled shall be sealed,  
21 labeled, stamped and otherwise made to comply with all  
22 provisions, rules and regulations governing manufacturers in  
23 the preparation and bottling of alcoholic liquors. The  
24 importing distributor's license shall permit such licensee to  
25 purchase alcoholic liquor from Illinois licensed non-resident  
26 dealers and foreign importers only.

1           (d) A retailer's license shall allow the licensee to sell  
2 and offer for sale at retail, only in the premises specified in  
3 the license, alcoholic liquor for use or consumption, but not  
4 for resale in any form. Nothing in this amendatory Act of the  
5 95th General Assembly shall deny, limit, remove, or restrict  
6 the ability of a holder of a retailer's license to transfer,  
7 deliver, or ship alcoholic liquor to the purchaser for use or  
8 consumption subject to any applicable local law or ordinance.  
9 Any retail license issued to a manufacturer shall only permit  
10 the manufacturer to sell beer at retail on the premises  
11 actually occupied by the manufacturer. For the purpose of  
12 further describing the type of business conducted at a retail  
13 licensed premises, a retailer's licensee may be designated by  
14 the State Commission as (i) an on premise consumption retailer,  
15 (ii) an off premise sale retailer, or (iii) a combined on  
16 premise consumption and off premise sale retailer.

17           Notwithstanding any other provision of this subsection  
18 (d), a retail licensee may sell alcoholic liquors to a special  
19 event retailer licensee for resale to the extent permitted  
20 under subsection (e).

21           (e) A special event retailer's license (not-for-profit)  
22 shall permit the licensee to purchase alcoholic liquors from an  
23 Illinois licensed distributor (unless the licensee purchases  
24 less than \$500 of alcoholic liquors for the special event, in  
25 which case the licensee may purchase the alcoholic liquors from  
26 a licensed retailer) and shall allow the licensee to sell and

1 offer for sale, at retail, alcoholic liquors for use or  
2 consumption, but not for resale in any form and only at the  
3 location and on the specific dates designated for the special  
4 event in the license. An applicant for a special event retailer  
5 license must (i) furnish with the application: (A) a resale  
6 number issued under Section 2c of the Retailers' Occupation Tax  
7 Act or evidence that the applicant is registered under Section  
8 2a of the Retailers' Occupation Tax Act, (B) a current, valid  
9 exemption identification number issued under Section 1g of the  
10 Retailers' Occupation Tax Act, and a certification to the  
11 Commission that the purchase of alcoholic liquors will be a  
12 tax-exempt purchase, or (C) a statement that the applicant is  
13 not registered under Section 2a of the Retailers' Occupation  
14 Tax Act, does not hold a resale number under Section 2c of the  
15 Retailers' Occupation Tax Act, and does not hold an exemption  
16 number under Section 1g of the Retailers' Occupation Tax Act,  
17 in which event the Commission shall set forth on the special  
18 event retailer's license a statement to that effect; (ii)  
19 submit with the application proof satisfactory to the State  
20 Commission that the applicant will provide dram shop liability  
21 insurance in the maximum limits; and (iii) show proof  
22 satisfactory to the State Commission that the applicant has  
23 obtained local authority approval.

24 (f) A railroad license shall permit the licensee to import  
25 alcoholic liquors into this State from any point in the United  
26 States outside this State and to store such alcoholic liquors



1 in this State; to make wholesale purchases of alcoholic liquors  
2 directly from manufacturers, foreign importers, distributors  
3 and importing distributors from within or outside this State;  
4 and to store such alcoholic liquors in this State; provided  
5 that the above powers may be exercised only in connection with  
6 the importation, purchase or storage of alcoholic liquors to be  
7 sold or dispensed on a club, buffet, lounge or dining car  
8 operated on an electric, gas or steam railway in this State;  
9 and provided further, that railroad licensees exercising the  
10 above powers shall be subject to all provisions of Article VIII  
11 of this Act as applied to importing distributors. A railroad  
12 license shall also permit the licensee to sell or dispense  
13 alcoholic liquors on any club, buffet, lounge or dining car  
14 operated on an electric, gas or steam railway regularly  
15 operated by a common carrier in this State, but shall not  
16 permit the sale for resale of any alcoholic liquors to any  
17 licensee within this State. A license shall be obtained for  
18 each car in which such sales are made.

19 (g) A boat license shall allow the sale of alcoholic liquor  
20 in individual drinks, on any passenger boat regularly operated  
21 as a common carrier on navigable waters in this State or on any  
22 riverboat operated under the Riverboat Gambling Act, which boat  
23 or riverboat maintains a public dining room or restaurant  
24 thereon.

25 (h) A non-beverage user's license shall allow the licensee  
26 to purchase alcoholic liquor from a licensed manufacturer or

1 importing distributor, without the imposition of any tax upon  
 2 the business of such licensed manufacturer or importing  
 3 distributor as to such alcoholic liquor to be used by such  
 4 licensee solely for the non-beverage purposes set forth in  
 5 subsection (a) of Section 8-1 of this Act, and such licenses  
 6 shall be divided and classified and shall permit the purchase,  
 7 possession and use of limited and stated quantities of  
 8 alcoholic liquor as follows:

- 9 Class 1, not to exceed ..... 500 gallons
- 10 Class 2, not to exceed ..... 1,000 gallons
- 11 Class 3, not to exceed ..... 5,000 gallons
- 12 Class 4, not to exceed ..... 10,000 gallons
- 13 Class 5, not to exceed ..... 50,000 gallons

14 (i) A wine-maker's premises license shall allow a licensee  
 15 that concurrently holds a first-class wine-maker's license to  
 16 sell and offer for sale at retail in the premises specified in  
 17 such license not more than 50,000 gallons of the first-class  
 18 wine-maker's wine that is made at the first-class wine-maker's  
 19 licensed premises per year for use or consumption, but not for  
 20 resale in any form. A wine-maker's premises license shall allow  
 21 a licensee who concurrently holds a second-class wine-maker's  
 22 license to sell and offer for sale at retail in the premises  
 23 specified in such license up to 100,000 gallons of the  
 24 second-class wine-maker's wine that is made at the second-class  
 25 wine-maker's licensed premises per year for use or consumption  
 26 but not for resale in any form. A wine-maker's premises license

1 shall allow a licensee that concurrently holds a first-class  
2 wine-maker's license or a second-class wine-maker's license to  
3 sell and offer for sale at retail at the premises specified in  
4 the wine-maker's premises license, for use or consumption but  
5 not for resale in any form, any beer, wine, and spirits  
6 purchased from a licensed distributor. Upon approval from the  
7 State Commission, a wine-maker's premises license shall allow  
8 the licensee to sell and offer for sale at (i) the wine-maker's  
9 licensed premises and (ii) at up to 2 additional locations for  
10 use and consumption and not for resale. Each location shall  
11 require additional licensing per location as specified in  
12 Section 5-3 of this Act. A wine-maker's premises licensee shall  
13 secure liquor liability insurance coverage in an amount at  
14 least equal to the maximum liability amounts set forth in  
15 subsection (a) of Section 6-21 of this Act.

16 (j) An airplane license shall permit the licensee to import  
17 alcoholic liquors into this State from any point in the United  
18 States outside this State and to store such alcoholic liquors  
19 in this State; to make wholesale purchases of alcoholic liquors  
20 directly from manufacturers, foreign importers, distributors  
21 and importing distributors from within or outside this State;  
22 and to store such alcoholic liquors in this State; provided  
23 that the above powers may be exercised only in connection with  
24 the importation, purchase or storage of alcoholic liquors to be  
25 sold or dispensed on an airplane; and provided further, that  
26 airplane licensees exercising the above powers shall be subject

1 to all provisions of Article VIII of this Act as applied to  
2 importing distributors. An airplane licensee shall also permit  
3 the sale or dispensing of alcoholic liquors on any passenger  
4 airplane regularly operated by a common carrier in this State,  
5 but shall not permit the sale for resale of any alcoholic  
6 liquors to any licensee within this State. A single airplane  
7 license shall be required of an airline company if liquor  
8 service is provided on board aircraft in this State. The annual  
9 fee for such license shall be as determined in Section 5-3.

10 (k) A foreign importer's license shall permit such licensee  
11 to purchase alcoholic liquor from Illinois licensed  
12 non-resident dealers only, and to import alcoholic liquor other  
13 than in bulk from any point outside the United States and to  
14 sell such alcoholic liquor to Illinois licensed importing  
15 distributors and to no one else in Illinois; provided that (i)  
16 the foreign importer registers with the State Commission every  
17 brand of alcoholic liquor that it proposes to sell to Illinois  
18 licensees during the license period, (ii) the foreign importer  
19 complies with all of the provisions of Section 6-9 of this Act  
20 with respect to registration of such Illinois licensees as may  
21 be granted the right to sell such brands at wholesale, and  
22 (iii) the foreign importer complies with the provisions of  
23 Sections 6-5 and 6-6 of this Act to the same extent that these  
24 provisions apply to manufacturers.

25 (l) (i) A broker's license shall be required of all persons  
26 who solicit orders for, offer to sell or offer to supply

1 alcoholic liquor to retailers in the State of Illinois, or who  
2 offer to retailers to ship or cause to be shipped or to make  
3 contact with distillers, rectifiers, brewers or manufacturers  
4 or any other party within or without the State of Illinois in  
5 order that alcoholic liquors be shipped to a distributor,  
6 importing distributor or foreign importer, whether such  
7 solicitation or offer is consummated within or without the  
8 State of Illinois.

9 No holder of a retailer's license issued by the Illinois  
10 Liquor Control Commission shall purchase or receive any  
11 alcoholic liquor, the order for which was solicited or offered  
12 for sale to such retailer by a broker unless the broker is the  
13 holder of a valid broker's license.

14 The broker shall, upon the acceptance by a retailer of the  
15 broker's solicitation of an order or offer to sell or supply or  
16 deliver or have delivered alcoholic liquors, promptly forward  
17 to the Illinois Liquor Control Commission a notification of  
18 said transaction in such form as the Commission may by  
19 regulations prescribe.

20 (ii) A broker's license shall be required of a person  
21 within this State, other than a retail licensee, who, for a fee  
22 or commission, promotes, solicits, or accepts orders for  
23 alcoholic liquor, for use or consumption and not for resale, to  
24 be shipped from this State and delivered to residents outside  
25 of this State by an express company, common carrier, or  
26 contract carrier. This Section does not apply to any person who

1 promotes, solicits, or accepts orders for wine as specifically  
2 authorized in Section 6-29 of this Act.

3 A broker's license under this subsection (1) shall not  
4 entitle the holder to buy or sell any alcoholic liquors for his  
5 own account or to take or deliver title to such alcoholic  
6 liquors.

7 This subsection (1) shall not apply to distributors,  
8 employees of distributors, or employees of a manufacturer who  
9 has registered the trademark, brand or name of the alcoholic  
10 liquor pursuant to Section 6-9 of this Act, and who regularly  
11 sells such alcoholic liquor in the State of Illinois only to  
12 its registrants thereunder.

13 Any agent, representative, or person subject to  
14 registration pursuant to subsection (a-1) of this Section shall  
15 not be eligible to receive a broker's license.

16 (m) A non-resident dealer's license shall permit such  
17 licensee to ship into and warehouse alcoholic liquor into this  
18 State from any point outside of this State, and to sell such  
19 alcoholic liquor to Illinois licensed foreign importers and  
20 importing distributors and to no one else in this State;  
21 provided that (i) said non-resident dealer shall register with  
22 the Illinois Liquor Control Commission each and every brand of  
23 alcoholic liquor which it proposes to sell to Illinois  
24 licensees during the license period, (ii) it shall comply with  
25 all of the provisions of Section 6-9 hereof with respect to  
26 registration of such Illinois licensees as may be granted the

1 right to sell such brands at wholesale, and (iii) the  
2 non-resident dealer shall comply with the provisions of  
3 Sections 6-5 and 6-6 of this Act to the same extent that these  
4 provisions apply to manufacturers.

5 (n) A brew pub license shall allow the licensee to  
6 manufacture beer only on the premises specified in the license,  
7 to make sales of the beer manufactured on the premises to  
8 importing distributors, distributors, and to non-licensees for  
9 use and consumption, to store the beer upon the premises, and  
10 to sell and offer for sale at retail from the licensed  
11 premises, provided that a brew pub licensee shall not sell for  
12 off-premises consumption more than 50,000 gallons per year.

13 (o) A caterer retailer license shall allow the holder to  
14 serve alcoholic liquors as an incidental part of a food service  
15 that serves prepared meals which excludes the serving of snacks  
16 as the primary meal, either on or off-site whether licensed or  
17 unlicensed.

18 (p) An auction liquor license shall allow the licensee to  
19 sell and offer for sale at auction wine and spirits for use or  
20 consumption, or for resale by an Illinois liquor licensee in  
21 accordance with provisions of this Act. An auction liquor  
22 license will be issued to a person and it will permit the  
23 auction liquor licensee to hold the auction anywhere in the  
24 State. An auction liquor license must be obtained for each  
25 auction at least 14 days in advance of the auction date.

26 (q) A special use permit license shall allow an Illinois

1 licensed retailer to transfer a portion of its alcoholic liquor  
2 inventory from its retail licensed premises to the premises  
3 specified in the license hereby created, and to sell or offer  
4 for sale at retail, only in the premises specified in the  
5 license hereby created, the transferred alcoholic liquor for  
6 use or consumption, but not for resale in any form. A special  
7 use permit license may be granted for the following time  
8 periods: one day or less; 2 or more days to a maximum of 15 days  
9 per location in any 12 month period. An applicant for the  
10 special use permit license must also submit with the  
11 application proof satisfactory to the State Commission that the  
12 applicant will provide dram shop liability insurance to the  
13 maximum limits and have local authority approval.

14 (r) A winery shipper's license shall allow a person with a  
15 first-class or second-class wine manufacturer's license, a  
16 first-class or second-class wine-maker's license, or a limited  
17 wine manufacturer's license or who is licensed to make wine  
18 under the laws of another state to ship wine made by that  
19 licensee directly to a resident of this State who is 21 years  
20 of age or older for that resident's personal use and not for  
21 resale. Prior to receiving a winery shipper's license, an  
22 applicant for the license must provide the Commission with a  
23 true copy of its current license in any state in which it is  
24 licensed as a manufacturer of wine. An applicant for a winery  
25 shipper's license must also complete an application form that  
26 provides any other information the Commission deems necessary.



1 The application form shall include an acknowledgement  
2 consenting to the jurisdiction of the Commission, the Illinois  
3 Department of Revenue, and the courts of this State concerning  
4 the enforcement of this Act and any related laws, rules, and  
5 regulations, including authorizing the Department of Revenue  
6 and the Commission to conduct audits for the purpose of  
7 ensuring compliance with this amendatory Act.

8 A winery shipper licensee must pay to the Department of  
9 Revenue the State liquor gallonage tax under Section 8-1 for  
10 all wine that is sold by the licensee and shipped to a person  
11 in this State. For the purposes of Section 8-1, a winery  
12 shipper licensee shall be taxed in the same manner as a  
13 manufacturer of wine. A licensee who is not otherwise required  
14 to register under the Retailers' Occupation Tax Act must  
15 register under the Use Tax Act to collect and remit use tax to  
16 the Department of Revenue for all gallons of wine that are sold  
17 by the licensee and shipped to persons in this State. If a  
18 licensee fails to remit the tax imposed under this Act in  
19 accordance with the provisions of Article VIII of this Act, the  
20 winery shipper's license shall be revoked in accordance with  
21 the provisions of Article VII of this Act. If a licensee fails  
22 to properly register and remit tax under the Use Tax Act or the  
23 Retailers' Occupation Tax Act for all wine that is sold by the  
24 winery shipper and shipped to persons in this State, the winery  
25 shipper's license shall be revoked in accordance with the  
26 provisions of Article VII of this Act.

1           A winery shipper licensee must collect, maintain, and  
2 submit to the Commission on a semi-annual basis the total  
3 number of cases per resident of wine shipped to residents of  
4 this State. A winery shipper licensed under this subsection (r)  
5 must comply with the requirements of Section 6-29 of this  
6 amendatory Act.

7           (Source: P.A. 95-331, eff. 8-21-07; 95-634, eff. 6-1-08;  
8 95-769, eff. 7-29-08.)