



Sen. Antonio Muñoz

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LRB098 07025 MGM 44940 a

1 AMENDMENT TO HOUSE BILL 1573

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1573 by replacing  
3 everything after the enacting clause with the following:

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)

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

1 lessees of sleeping, dining and cafe cars, airplanes,  
2 boats, brokers, and wine maker's premises licensees in  
3 accordance with the provisions of this Act, and to suspend  
4 or revoke such licenses upon the State commission's  
5 determination, upon notice after hearing, that a licensee  
6 has violated any provision of this Act or any rule or  
7 regulation issued pursuant thereto and in effect for 30  
8 days prior to such violation. Except in the case of an  
9 action taken pursuant to a violation of Section 6-3, 6-5,  
10 or 6-9, any action by the State Commission to suspend or  
11 revoke a licensee's license may be limited to the license  
12 for the specific premises where the violation occurred.

13 In lieu of suspending or revoking a license, the  
14 commission may impose a fine, upon the State commission's  
15 determination and notice after hearing, that a licensee has  
16 violated any provision of this Act or any rule or  
17 regulation issued pursuant thereto and in effect for 30  
18 days prior to such violation. The fine imposed under this  
19 paragraph may not exceed \$500 for each violation. Each day  
20 that the activity, which gave rise to the original fine,  
21 continues is a separate violation. The maximum fine that  
22 may be levied against any licensee, for the period of the  
23 license, shall not exceed \$20,000. The maximum penalty that  
24 may be imposed on a licensee for selling a bottle of  
25 alcoholic liquor with a foreign object in it or serving  
26 from a bottle of alcoholic liquor with a foreign object in

1           it shall be the destruction of that bottle of alcoholic  
2           liquor for the first 10 bottles so sold or served from by  
3           the licensee. For the eleventh bottle of alcoholic liquor  
4           and for each third bottle thereafter sold or served from by  
5           the licensee with a foreign object in it, the maximum  
6           penalty that may be imposed on the licensee is the  
7           destruction of the bottle of alcoholic liquor and a fine of  
8           up to \$50.

9           (2) To adopt such rules and regulations consistent with  
10          the provisions of this Act which shall be necessary to  
11          carry on its functions and duties to the end that the  
12          health, safety and welfare of the People of the State of  
13          Illinois shall be protected and temperance in the  
14          consumption of alcoholic liquors shall be fostered and  
15          promoted and to distribute copies of such rules and  
16          regulations to all licensees affected thereby.

17          (3) To call upon other administrative departments of  
18          the State, county and municipal governments, county and  
19          city police departments and upon prosecuting officers for  
20          such information and assistance as it deems necessary in  
21          the performance of its duties.

22          (4) To recommend to local commissioners rules and  
23          regulations, not inconsistent with the law, for the  
24          distribution and sale of alcoholic liquors throughout the  
25          State.

26          (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,

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

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

10 (7) The commission shall establish uniform systems of  
11 accounts to be kept by all retail licensees having more  
12 than 4 employees, and for this purpose the commission may  
13 classify all retail licensees having more than 4 employees  
14 and establish a uniform system of accounts for each class  
15 and prescribe the manner in which such accounts shall be  
16 kept. The commission may also prescribe the forms of  
17 accounts to be kept by all retail licensees having more  
18 than 4 employees, including but not limited to accounts of  
19 earnings and expenses and any distribution, payment, or  
20 other distribution of earnings or assets, and any other  
21 forms, records and memoranda which in the judgment of the  
22 commission may be necessary or appropriate to carry out any  
23 of the provisions of this Act, including but not limited to  
24 such forms, records and memoranda as will readily and  
25 accurately disclose at all times the beneficial ownership  
26 of such retail licensed business. The accounts, forms,

1 records and memoranda shall be available at all reasonable  
2 times for inspection by authorized representatives of the  
3 State commission or by any local liquor control  
4 commissioner or his or her authorized representative. The  
5 commission, may, from time to time, alter, amend or repeal,  
6 in whole or in part, any uniform system of accounts, or the  
7 form and manner of keeping accounts.

8 (8) In the conduct of any hearing authorized to be held  
9 by the commission, to appoint, at the commission's  
10 discretion, hearing officers to conduct hearings involving  
11 complex issues or issues that will require a protracted  
12 period of time to resolve, to examine, or cause to be  
13 examined, under oath, any licensee, and to examine or cause  
14 to be examined the books and records of such licensee; to  
15 hear testimony and take proof material for its information  
16 in the discharge of its duties hereunder; to administer or  
17 cause to be administered oaths; for any such purpose to  
18 issue subpoena or subpoenas to require the attendance of  
19 witnesses and the production of books, which shall be  
20 effective in any part of this State, and to adopt rules to  
21 implement its powers under this paragraph (8). When  
22 multiple complaints alleging violations of Sections 6-2,  
23 6-4, 6-5, 6-6 or 6-9 of this Act result in a hearing, the  
24 Commission shall designate a hearing officer to conduct the  
25 hearing. The hearing officer shall be an attorney licensed  
26 to practice law in this State and shall be an employee of

1       the Illinois Liquor Control Commission, unless, by a  
2       majority vote of the Commission, the Commission selects a  
3       hearing officer who has not received compensation for a  
4       period of one year from the date of the hearing from a  
5       licensed business or entity subject to the provisions of  
6       this Act. These hearings shall commence no later than 30  
7       days after the hearing officer determines that the  
8       complaint or result of an investigation substantially  
9       alleges a violation of the Act or rules adopted under this  
10       Act, and the hearing officer alleges a violation in a  
11       notice of hearing. At the time of the hearing, the hearing  
12       officer shall proceed to hear the complaint or result of an  
13       investigation, and all parties shall be afforded an  
14       opportunity to present, in person or by counsel, any  
15       relevant statements, testimony, evidence, and arguments.  
16       The hearing officer may continue the hearing by agreement  
17       of the parties or upon finding of good cause, but in no  
18       event shall the hearing be rescheduled or continued more  
19       that 60 days after the initial hearing date.

20       Upon any hearing, the hearing officer may administer  
21       oaths to witnesses and issue subpoenas for the attendance  
22       of witnesses or other persons and the production of  
23       relevant documents, records, and other evidence and may  
24       require examination of the evidence. For purposes of  
25       discovery, the hearing officer may, if deemed appropriate  
26       and proper under the circumstances, authorize the parties

1       to engage in the discovery procedures as provided in  
2       Section 2-1003 of the Code of Civil Procedure. Discovery  
3       shall be completed no later than 15 days prior to  
4       commencement of the proceeding or hearing. Enforcement of  
5       discovery procedures shall be provided in the rules.  
6       Subpoenas issued shall be served in the same manner as  
7       subpoenas issued by the circuit courts.

8           A party may conduct cross-examination required for a  
9       full and fair disclosure of the facts. Within 60 days after  
10       the date of the hearing, the hearing officer shall issue  
11       his or her proposed decision to the Commission and shall,  
12       by certified mail, return receipt requested, serve the  
13       proposed decision upon the parties, with an opportunity  
14       afforded to each party to file exceptions and present a  
15       brief to the Commission within 10 days after their receipt  
16       of the proposed decisions. The proposed decision shall  
17       contain a statement of the reasons for the decision and  
18       each issue of fact or law necessary to the proposed  
19       decision. The Commission shall then issue its final order  
20       within 30 days after receipt of the hearing officer's  
21       proposed decision.

22           The Commission shall record the testimony and preserve  
23       a record of all proceedings at the hearing by proper means  
24       of recordation. The citation issued, the notice of hearing,  
25       and all other documents in the nature of pleadings,  
26       motions, and rulings, all evidence, offers of proof,



1       objections, and rulings thereon, the transcript of  
2       testimony, the report of findings or proposed decision of  
3       the hearing officer, and the orders of the Commission shall  
4       constitute the record of the proceedings. The Commission  
5       shall furnish a transcript of the record to any person  
6       interested in the hearing upon payment of the actual cost  
7       of the transcript.

8           Any Circuit Court may by order duly entered, require  
9       the attendance of witnesses and the production of relevant  
10      books subpoenaed by the State commission and the court may  
11      compel obedience to its order by proceedings for contempt.

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

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

24           (11) To develop industry educational programs related  
25      to responsible serving and selling, particularly in the  
26      areas of overserving consumers and illegal underage

1 purchasing and consumption of alcoholic beverages.

2 (11.1) To license persons providing education and  
3 training to alcohol beverage sellers and servers under the  
4 Beverage Alcohol Sellers and Servers Education and  
5 Training (BASSET) programs and to develop and administer a  
6 public awareness program in Illinois to reduce or eliminate  
7 the illegal purchase and consumption of alcoholic beverage  
8 products by persons under the age of 21. Application for a  
9 license shall be made on forms provided by the State  
10 Commission.

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

13 (13) On or before January 15, 1994, the Commission  
14 shall issue a written report to the Governor and General  
15 Assembly that is to be based on a comprehensive study of  
16 the impact on and implications for the State of Illinois of  
17 Section 1926 of the Federal ADAMHA Reorganization Act of  
18 1992 (Public Law 102-321). This study shall address the  
19 extent to which Illinois currently complies with the  
20 provisions of P.L. 102-321 and the rules promulgated  
21 pursuant thereto.

22 As part of its report, the Commission shall provide the  
23 following essential information:

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

26 (ii) the number of reported citations and

1           successful convictions, categorized by type and  
2           location of retail distributor, for violation of the  
3           Prevention of Tobacco Use by Minors and Sale and  
4           Distribution of Tobacco Products Act and the Smokeless  
5           Tobacco Limitation Act;

6           (iii) the extent and nature of organized  
7           educational and governmental activities that are  
8           intended to promote, encourage or otherwise secure  
9           compliance with any Illinois laws that prohibit the  
10          sale or distribution of tobacco products to minors; and

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

13          To obtain the data necessary to comply with the  
14          provisions of P.L. 102-321 and the requirements of this  
15          report, the Commission shall conduct random, unannounced  
16          inspections of a geographically and scientifically  
17          representative sample of the State's retail tobacco  
18          distributors.

19          The Commission shall consult with the Department of  
20          Public Health, the Department of Human Services, the  
21          Illinois State Police and any other executive branch  
22          agency, and private organizations that may have  
23          information relevant to this report.

24          The Commission may contract with the Food and Drug  
25          Administration of the U.S. Department of Health and Human  
26          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 (14) On or before April 30, 2008 and every 2 years  
5 thereafter, the Commission shall present a written report  
6 to the Governor and the General Assembly that shall be  
7 based on a study of the impact of this amendatory Act of  
8 the 95th General Assembly on the business of soliciting,  
9 selling, and shipping wine from inside and outside of this  
10 State directly to residents of this State. As part of its  
11 report, the Commission shall provide all of the following  
12 information:

13 (A) The amount of State excise and sales tax  
14 revenues generated.

15 (B) The amount of licensing fees received.

16 (C) The number of cases of wine shipped from inside  
17 and outside of this State directly to residents of this  
18 State.

19 (D) The number of alcohol compliance operations  
20 conducted.

21 (E) The number of winery shipper's licenses  
22 issued.

23 (F) The number of each of the following: reported  
24 violations; cease and desist notices issued by the  
25 Commission; notices of violations issued by the  
26 Commission and to the Department of Revenue; and

1 notices and complaints of violations to law  
2 enforcement officials, including, without limitation,  
3 the Illinois Attorney General and the U.S. Department  
4 of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

5 (15) As a means to reduce the underage consumption of  
6 alcoholic liquors, the Commission shall conduct alcohol  
7 compliance operations to investigate whether businesses  
8 that are soliciting, selling, and shipping wine from inside  
9 or outside of this State directly to residents of this  
10 State are licensed by this State or are selling or  
11 attempting to sell wine to persons under 21 years of age in  
12 violation of this Act.

13 (16) The Commission shall, in addition to notifying any  
14 appropriate law enforcement agency, submit notices of  
15 complaints or violations of Sections 6-29 and 6-29.1 by  
16 persons who do not hold a winery shipper's license under  
17 this amendatory Act to the Illinois Attorney General and to  
18 the U.S. Department of Treasury's Alcohol and Tobacco Tax  
19 and Trade Bureau.

20 (17) (A) A person licensed to make wine under the laws  
21 of another state who has a winery shipper's license under  
22 this amendatory Act and annually produces less than 25,000  
23 gallons of wine or a person who has a first-class or  
24 second-class wine manufacturer's license, a first-class or  
25 second-class wine-maker's license, or a limited wine  
26 manufacturer's license under this Act and annually

1 produces less than 25,000 gallons of wine may make  
2 application to the Commission for a self-distribution  
3 exemption to allow the sale of not more than 5,000 gallons  
4 of the exemption holder's wine to retail licensees per  
5 year.

6 (B) In the application, which shall be sworn under  
7 penalty of perjury, such person shall state (1) the  
8 date it was established; (2) its volume of production  
9 and sales for each year since its establishment; (3)  
10 its efforts to establish distributor relationships;  
11 (4) that a self-distribution exemption is necessary to  
12 facilitate the marketing of its wine; and (5) that it  
13 will comply with the liquor and revenue laws of the  
14 United States, this State, and any other state where it  
15 is licensed.

16 (C) The Commission shall approve the application  
17 for a self-distribution exemption if such person: (1)  
18 is in compliance with State revenue and liquor laws;  
19 (2) is not a member of any affiliated group that  
20 produces more than 25,000 gallons of wine per annum or  
21 produces any other alcoholic liquor; (3) will not  
22 annually produce for sale more than 25,000 gallons of  
23 wine; and (4) will not annually sell more than 5,000  
24 gallons of its wine to retail licensees.

25 (D) A self-distribution exemption holder shall  
26 annually certify to the Commission its production of

1 wine in the previous 12 months and its anticipated  
2 production and sales for the next 12 months. The  
3 Commission may fine, suspend, or revoke a  
4 self-distribution exemption after a hearing if it  
5 finds that the exemption holder has made a material  
6 misrepresentation in its application, violated a  
7 revenue or liquor law of Illinois, exceeded production  
8 of 25,000 gallons of wine in any calendar year, or  
9 become part of an affiliated group producing more than  
10 25,000 gallons of wine or any other alcoholic liquor.

11 (E) Except in hearings for violations of this Act  
12 or amendatory Act or a bona fide investigation by duly  
13 sworn law enforcement officials, the Commission, or  
14 its agents, the Commission shall maintain the  
15 production and sales information of a  
16 self-distribution exemption holder as confidential and  
17 shall not release such information to any person.

18 (F) The Commission shall issue regulations  
19 governing self-distribution exemptions consistent with  
20 this Section and this Act.

21 (G) Nothing in this subsection (17) shall prohibit  
22 a self-distribution exemption holder from entering  
23 into or simultaneously having a distribution agreement  
24 with a licensed Illinois distributor.

25 (H) It is the intent of this subsection (17) to  
26 promote and continue orderly markets. The General

1 Assembly finds that in order to preserve Illinois'  
2 regulatory distribution system it is necessary to  
3 create an exception for smaller makers of wine as their  
4 wines are frequently adjusted in varietals, mixes,  
5 vintages, and taste to find and create market niches  
6 sometimes too small for distributor or importing  
7 distributor business strategies. Limited  
8 self-distribution rights will afford and allow smaller  
9 makers of wine access to the marketplace in order to  
10 develop a customer base without impairing the  
11 integrity of the 3-tier system.

12 (18) (A) A craft brewer licensee, who must also be  
13 either a licensed brewer or licensed non-resident dealer  
14 and annually manufacture less than 465,000 gallons of beer,  
15 may make application to the Commission for a  
16 self-distribution exemption to allow the sale of not more  
17 than 232,500 gallons of the exemption holder's beer to  
18 retail licensees per year.

19 (B) In the application, which shall be sworn under  
20 penalty of perjury, the craft brewer licensee shall  
21 state (1) the date it was established; (2) its volume  
22 of beer manufactured and sold for each year since its  
23 establishment; (3) its efforts to establish  
24 distributor relationships; (4) that a  
25 self-distribution exemption is necessary to facilitate  
26 the marketing of its beer; and (5) that it will comply



1 with the alcoholic beverage and revenue laws of the  
2 United States, this State, and any other state where it  
3 is licensed.

4 (C) Any application submitted shall be posted on  
5 the Commission's website at least 45 days prior to  
6 action by the Commission. The Commission shall approve  
7 the application for a self-distribution exemption if  
8 the craft brewer licensee: (1) is in compliance with  
9 the State, revenue, and alcoholic beverage laws; (2) is  
10 not a member of any affiliated group that manufacturers  
11 more than 465,000 gallons of beer per annum or produces  
12 any other alcoholic beverages; (3) shall not annually  
13 manufacture for sale more than 465,000 gallons of beer;  
14 and (4) shall not annually sell more than 232,500  
15 gallons of its beer to retail licensees.

16 (D) A self-distribution exemption holder shall  
17 annually certify to the Commission its manufacture of  
18 beer during the previous 12 months and its anticipated  
19 manufacture and sales of beer for the next 12 months.  
20 The Commission may fine, suspend, or revoke a  
21 self-distribution exemption after a hearing if it  
22 finds that the exemption holder has made a material  
23 misrepresentation in its application, violated a  
24 revenue or alcoholic beverage law of Illinois,  
25 exceeded the manufacture of 465,000 gallons of beer in  
26 any calendar year or became part of an affiliated group

1 manufacturing more than 465,000 gallons of beer or any  
2 other alcoholic beverage.

3 (E) The Commission shall issue rules and  
4 regulations governing self-distribution exemptions  
5 consistent with this Act.

6 (F) Nothing in this paragraph (18) shall prohibit a  
7 self-distribution exemption holder from entering into  
8 or simultaneously having a distribution agreement with  
9 a licensed Illinois importing distributor or a  
10 distributor. If a self-distribution exemption holder  
11 enters into a distribution agreement and has assigned  
12 distribution rights to an importing distributor or  
13 distributor, then the self-distribution exemption  
14 holder's distribution rights in the assigned  
15 territories shall cease in a reasonable time not to  
16 exceed 60 days.

17 (G) It is the intent of this paragraph (18) to  
18 promote and continue orderly markets. The General  
19 Assembly finds that in order to preserve Illinois'  
20 regulatory distribution system, it is necessary to  
21 create an exception for smaller manufacturers in order  
22 to afford and allow such smaller manufacturers of beer  
23 access to the marketplace in order to develop a  
24 customer base without impairing the integrity of the  
25 3-tier system.

26 (b) On or before April 30, 1999, the Commission shall

1 present a written report to the Governor and the General  
2 Assembly that shall be based on a study of the impact of this  
3 amendatory Act of 1998 on the business of soliciting, selling,  
4 and shipping alcoholic liquor from outside of this State  
5 directly to residents of this State.

6 As part of its report, the Commission shall provide the  
7 following information:

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

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

12 (iii) the number of reported violations, the number of  
13 cease and desist notices issued by the Commission, the  
14 number of notices of violations issued to the Department of  
15 Revenue, and the number of notices and complaints of  
16 violations to law enforcement officials.

17 (Source: P.A. 96-179, eff. 8-10-09; 96-446, eff. 1-1-10;  
18 96-1000, eff. 7-2-10; 97-5, eff. 6-1-11.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law."