



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

**HB5584**

by Rep. Frank J. Mautino

#### SYNOPSIS AS INTRODUCED:

235 ILCS 5/2-1	from Ch. 43, par. 96
235 ILCS 5/6-5	from Ch. 43, par. 122
235 ILCS 5/6-6	from Ch. 43, par. 123

Amends the Liquor Control Act of 1934. Provides that the provisions of the Act that prohibit liquor distributors and liquor manufacturers from giving anything of value to a person who has a retailer's license do not authorize the Liquor Control Commission to regulate beverage products that contain one-half of one per cent, or less, of alcohol by volume. Provides that the provisions of the Act shall not apply to any liquid or solid containing one-half of one per cent, or less, of alcohol by volume.

LRB098 17698 RPS 52813 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 Sections 2-1, 6-5, and 6-6 as follows:

6 (235 ILCS 5/2-1) (from Ch. 43, par. 96)

7 Sec. 2-1. No person shall manufacture, bottle, blend, sell,  
8 barter, transport, transfer into this State from a point  
9 outside this State, deliver, furnish or possess any alcoholic  
10 liquor for beverage purposes, unless such person has been  
11 issued a license by the Commission or except as permitted by  
12 Section 6-29 of this Act or except as otherwise specifically  
13 provided in this Act; provided, however, nothing herein  
14 contained shall prevent the possession and transportation of  
15 alcoholic liquor by the possessor for the personal use of the  
16 possessor, his family and guests, nor prevent the making of  
17 wine, cider or other alcoholic liquor by a person from fruits,  
18 vegetables or grains, or the products thereof, by simple  
19 fermentation and without distillation, if it is made solely for  
20 the use of the maker, his family and his guests; and provided  
21 further that nothing herein contained shall prevent any duly  
22 licensed practicing physician or dentist from possessing or  
23 using alcoholic liquor in the strict practice of his

1 profession, or any hospital or other institution caring for  
2 sick and diseased persons, from possessing and using alcoholic  
3 liquor for the treatment of bona fide patients of such hospital  
4 or other institution; and provided further that any drug store  
5 employing a licensed pharmacist may possess and use alcoholic  
6 liquors in the concoction of prescriptions of duly licensed  
7 physicians; and provided further, that the possession and  
8 dispensation of wine by an authorized representative of any  
9 church for the purpose of conducting any bona fide rite or  
10 religious ceremony conducted by such church shall not be  
11 prohibited by this Act.

12 The provisions of this Act shall not apply to any liquid or  
13 solid containing one-half of one per cent, or less, of alcohol  
14 by volume.

15 (Source: P.A. 90-739, eff. 8-13-98.)

16 (235 ILCS 5/6-5) (from Ch. 43, par. 122)

17 Sec. 6-5. Except as otherwise provided in this Section, it  
18 is unlawful for any person having a retailer's license or any  
19 officer, associate, member, representative or agent of such  
20 licensee to accept, receive or borrow money, or anything else  
21 of value, or accept or receive credit (other than merchandising  
22 credit in the ordinary course of business for a period not to  
23 exceed 30 days) directly or indirectly from any manufacturer,  
24 importing distributor or distributor of alcoholic liquor, or  
25 from any person connected with or in any way representing, or

1 from any member of the family of, such manufacturer, importing  
2 distributor, distributor or wholesaler, or from any  
3 stockholders in any corporation engaged in manufacturing,  
4 distributing or wholesaling of such liquor, or from any  
5 officer, manager, agent or representative of said  
6 manufacturer. Except as provided below, it is unlawful for any  
7 manufacturer or distributor or importing distributor to give or  
8 lend money or anything of value, or otherwise loan or extend  
9 credit (except such merchandising credit) directly or  
10 indirectly to any retail licensee or to the manager,  
11 representative, agent, officer or director of such licensee. A  
12 manufacturer, distributor or importing distributor may furnish  
13 free advertising, posters, signs, brochures, hand-outs, or  
14 other promotional devices or materials to any unit of  
15 government owning or operating any auditorium, exhibition  
16 hall, recreation facility or other similar facility holding a  
17 retailer's license, provided that the primary purpose of such  
18 promotional devices or materials is to promote public events  
19 being held at such facility. A unit of government owning or  
20 operating such a facility holding a retailer's license may  
21 accept such promotional devices or materials designed  
22 primarily to promote public events held at the facility. No  
23 retail licensee delinquent beyond the 30 day period specified  
24 in this Section shall solicit, accept or receive credit,  
25 purchase or acquire alcoholic liquors, directly or indirectly  
26 from any other licensee, and no manufacturer, distributor or

1 importing distributor shall knowingly grant or extend credit,  
2 sell, furnish or supply alcoholic liquors to any such  
3 delinquent retail licensee; provided that the purchase price of  
4 all beer sold to a retail licensee shall be paid by the retail  
5 licensee in cash on or before delivery of the beer, and unless  
6 the purchase price payable by a retail licensee for beer sold  
7 to him in returnable bottles shall expressly include a charge  
8 for the bottles and cases, the retail licensee shall, on or  
9 before delivery of such beer, pay the seller in cash a deposit  
10 in an amount not less than the deposit required to be paid by  
11 the distributor to the brewer; but where the brewer sells  
12 direct to the retailer, the deposit shall be an amount no less  
13 than that required by the brewer from his own distributors; and  
14 provided further, that in no instance shall this deposit be  
15 less than 50 cents for each case of beer in pint or smaller  
16 bottles and 60 cents for each case of beer in quart or  
17 half-gallon bottles; and provided further, that the purchase  
18 price of all beer sold to an importing distributor or  
19 distributor shall be paid by such importing distributor or  
20 distributor in cash on or before the 15th day (Sundays and  
21 holidays excepted) after delivery of such beer to such  
22 purchaser; and unless the purchase price payable by such  
23 importing distributor or distributor for beer sold in  
24 returnable bottles and cases shall expressly include a charge  
25 for the bottles and cases, such importing distributor or  
26 distributor shall, on or before the 15th day (Sundays and

1 holidays excepted) after delivery of such beer to such  
2 purchaser, pay the seller in cash a required amount as a  
3 deposit to assure the return of such bottles and cases. Nothing  
4 herein contained shall prohibit any licensee from crediting or  
5 refunding to a purchaser the actual amount of money paid for  
6 bottles, cases, kegs or barrels returned by the purchaser to  
7 the seller or paid by the purchaser as a deposit on bottles,  
8 cases, kegs or barrels, when such containers or packages are  
9 returned to the seller. Nothing herein contained shall prohibit  
10 any manufacturer, importing distributor or distributor from  
11 extending usual and customary credit for alcoholic liquor sold  
12 to customers or purchasers who live in or maintain places of  
13 business outside of this State when such alcoholic liquor is  
14 actually transported and delivered to such points outside of  
15 this State.

16 No right of action shall exist for the collection of any  
17 claim based upon credit extended to a distributor, importing  
18 distributor or retail licensee contrary to the provisions of  
19 this Section.

20 Every manufacturer, importing distributor and distributor  
21 shall submit or cause to be submitted, to the State Commission,  
22 in triplicate, not later than Thursday of each calendar week, a  
23 verified written list of the names and respective addresses of  
24 each retail licensee purchasing spirits or wine from such  
25 manufacturer, importing distributor or distributor who, on the  
26 first business day of that calendar week, was delinquent beyond

1 the above mentioned permissible merchandising credit period of  
2 30 days; or, if such is the fact, a verified written statement  
3 that no retail licensee purchasing spirits or wine was then  
4 delinquent beyond such permissible merchandising credit period  
5 of 30 days.

6 Every manufacturer, importing distributor and distributor  
7 shall submit or cause to be submitted, to the State Commission,  
8 in triplicate, a verified written list of the names and  
9 respective addresses of each previously reported delinquent  
10 retail licensee who has cured such delinquency by payment,  
11 which list shall be submitted not later than the close of the  
12 second full business day following the day such delinquency was  
13 so cured.

14 Such written verified reports required to be submitted by  
15 this Section shall be posted by the State Commission in each of  
16 its offices in places available for public inspection not later  
17 than the day following receipt thereof by the Commission. The  
18 reports so posted shall constitute notice to every  
19 manufacturer, importing distributor and distributor of the  
20 information contained therein. Actual notice to manufacturers,  
21 importing distributors and distributors of the information  
22 contained in any such posted reports, however received, shall  
23 also constitute notice of such information.

24 The 30 day merchandising credit period allowed by this  
25 Section shall commence with the day immediately following the  
26 date of invoice and shall include all successive days including

1 Sundays and holidays to and including the 30th successive day.

2 In addition to other methods allowed by law, payment by  
3 check during the period for which merchandising credit may be  
4 extended under the provisions of this Section shall be  
5 considered payment. All checks received in payment for  
6 alcoholic liquor shall be promptly deposited for collection. A  
7 post dated check or a check dishonored on presentation for  
8 payment shall not be deemed payment.

9 A retail licensee shall not be deemed to be delinquent in  
10 payment for any alleged sale to him of alcoholic liquor when  
11 there exists a bona fide dispute between such retailer and a  
12 manufacturer, importing distributor or distributor with  
13 respect to the amount of indebtedness existing because of such  
14 alleged sale.

15 A delinquent retail licensee who engages in the retail  
16 liquor business at 2 or more locations shall be deemed to be  
17 delinquent with respect to each such location.

18 The license of any person who violates any provision of  
19 this Section shall be subject to suspension or revocation in  
20 the manner provided by this Act.

21 If any part or provision of this Article or the application  
22 thereof to any person or circumstances shall be adjudged  
23 invalid by a court of competent jurisdiction, such judgment  
24 shall be confined by its operation to the controversy in which  
25 it was mentioned and shall not affect or invalidate the  
26 remainder of this Article or the application thereof to any



1 other person or circumstance and to this and the provisions of  
2 this Article are declared severable.

3 This Section does not authorize the State Commission to  
4 regulate beverage products that contain one-half of one per  
5 cent, or less, of alcohol by volume.

6 (Source: P.A. 83-762.)

7 (235 ILCS 5/6-6) (from Ch. 43, par. 123)

8 Sec. 6-6. Except as otherwise provided in this Act no  
9 manufacturer or distributor or importing distributor shall,  
10 directly~~r~~ or indirectly, sell, supply, furnish, give or pay  
11 for, or loan or lease, any furnishing, fixture or equipment on  
12 the premises of a place of business of another licensee  
13 authorized under this Act to sell alcoholic liquor at retail,  
14 either for consumption on or off the premises, nor shall he or  
15 she~~l~~, directly or indirectly, pay for any such license, or  
16 advance, furnish, lend or give money for payment of such  
17 license, or purchase or become the owner of any note, mortgage,  
18 or other evidence of indebtedness of such licensee or any form  
19 of security therefor, nor shall such manufacturer, or  
20 distributor, or importing distributor, directly or indirectly,  
21 be interested in the ownership, conduct or operation of the  
22 business of any licensee authorized to sell alcoholic liquor at  
23 retail, nor shall any manufacturer, or distributor, or  
24 importing distributor be interested directly or indirectly or  
25 as owner or part owner of said premises or as lessee or lessor

1       thereof, in any premises upon which alcoholic liquor is sold at  
2       retail.

3           No manufacturer or distributor or importing distributor  
4       shall, directly or indirectly or through a subsidiary or  
5       affiliate, or by any officer, director or firm of such  
6       manufacturer, distributor or importing distributor, furnish,  
7       give, lend or rent, install, repair or maintain, to or for any  
8       retail licensee in this State, any signs or inside advertising  
9       materials except as provided in this Section and Section 6-5.  
10       With respect to retail licensees, other than any government  
11       owned or operated auditorium, exhibition hall, recreation  
12       facility or other similar facility holding a retailer's license  
13       as described in Section 6-5, a manufacturer, distributor, or  
14       importing distributor may furnish, give, lend or rent and  
15       erect, install, repair and maintain to or for any retail  
16       licensee, for use at any one time in or about or in connection  
17       with a retail establishment on which the products of the  
18       manufacturer, distributor or importing distributor are sold,  
19       the following signs and inside advertising materials as  
20       authorized in subparts (i), (ii), (iii), and (iv):

21           (i) Permanent outside signs shall be limited to one  
22       outside sign, per brand, in place and in use at any one  
23       time, costing not more than \$893, exclusive of erection,  
24       installation, repair and maintenance costs, and permit  
25       fees and shall bear only the manufacturer's name, brand  
26       name, trade name, slogans, markings, trademark, or other

1 symbols commonly associated with and generally used in  
2 identifying the product including, but not limited to,  
3 "cold beer", "on tap", "carry out", and "packaged liquor".

4 (ii) Temporary outside signs shall be limited to one  
5 temporary outside sign per brand. Examples of temporary  
6 outside signs are banners, flags, pennants, streamers, and  
7 other items of a temporary and non-permanent nature. Each  
8 temporary outside sign must include the manufacturer's  
9 name, brand name, trade name, slogans, markings,  
10 trademark, or other symbol commonly associated with and  
11 generally used in identifying the product. Temporary  
12 outside signs may also include, for example, the product,  
13 price, packaging, date or dates of a promotion and an  
14 announcement of a retail licensee's specific sponsored  
15 event, if the temporary outside sign is intended to promote  
16 a product, and provided that the announcement of the retail  
17 licensee's event and the product promotion are held  
18 simultaneously. However, temporary outside signs may not  
19 include names, slogans, markings, or logos that relate to  
20 the retailer. Nothing in this subpart (ii) shall prohibit a  
21 distributor or importing distributor from bearing the cost  
22 of creating or printing a temporary outside sign for the  
23 retail licensee's specific sponsored event or from bearing  
24 the cost of creating or printing a temporary sign for a  
25 retail licensee containing, for example, community  
26 goodwill expressions, regional sporting event

1 announcements, or seasonal messages, provided that the  
2 primary purpose of the temporary outside sign is to  
3 highlight, promote, or advertise the product. In addition,  
4 temporary outside signs provided by the manufacturer to the  
5 distributor or importing distributor may also include, for  
6 example, subject to the limitations of this Section,  
7 preprinted community goodwill expressions, sporting event  
8 announcements, seasonal messages, and manufacturer  
9 promotional announcements. However, a distributor or  
10 importing distributor shall not bear the cost of such  
11 manufacturer preprinted signs.

12 (iii) Permanent inside signs, whether visible from the  
13 outside or the inside of the premises, include, but are not  
14 limited to: alcohol lists and menus that may include names,  
15 slogans, markings, or logos that relate to the retailer;  
16 neons; illuminated signs; clocks; table lamps; mirrors;  
17 tap handles; decalcomanias; window painting; and window  
18 trim. All permanent inside signs in place and in use at any  
19 one time shall cost in the aggregate not more than \$2000  
20 per manufacturer. A permanent inside sign must include the  
21 manufacturer's name, brand name, trade name, slogans,  
22 markings, trademark, or other symbol commonly associated  
23 with and generally used in identifying the product.  
24 However, permanent inside signs may not include names,  
25 slogans, markings, or logos that relate to the retailer.  
26 For the purpose of this subpart (iii), all permanent inside

1 signs may be displayed in an adjacent courtyard or patio  
2 commonly referred to as a "beer garden" that is a part of  
3 the retailer's licensed premises.

4 (iv) Temporary inside signs shall include, but are not  
5 limited to, lighted chalk boards, acrylic table tent  
6 beverage or hors d'oeuvre list holders, banners, flags,  
7 pennants, streamers, and inside advertising materials such  
8 as posters, placards, bowling sheets, table tents, inserts  
9 for acrylic table tent beverage or hors d'oeuvre list  
10 holders, sports schedules, or similar printed or  
11 illustrated materials; however, such items, for example,  
12 as coasters, trays, napkins, glassware and cups shall not  
13 be deemed to be inside signs or advertising materials and  
14 may only be sold to retailers. All temporary inside signs  
15 and inside advertising materials in place and in use at any  
16 one time shall cost in the aggregate not more than \$325 per  
17 manufacturer. Nothing in this subpart (iv) prohibits a  
18 distributor or importing distributor from paying the cost  
19 of printing or creating any temporary inside banner or  
20 inserts for acrylic table tent beverage or hors d'oeuvre  
21 list holders for a retail licensee, provided that the  
22 primary purpose for the banner or insert is to highlight,  
23 promote, or advertise the product. For the purpose of this  
24 subpart (iv), all temporary inside signs and inside  
25 advertising materials may be displayed in an adjacent  
26 courtyard or patio commonly referred to as a "beer garden"

1           that is a part of the retailer's licensed premises.

2           A "cost adjustment factor" shall be used to periodically  
3 update the dollar limitations prescribed in subparts (i),  
4 (iii), and (iv). The Commission shall establish the adjusted  
5 dollar limitation on an annual basis beginning in January,  
6 1997. The term "cost adjustment factor" means a percentage  
7 equal to the change in the Bureau of Labor Statistics Consumer  
8 Price Index or 5%, whichever is greater. The restrictions  
9 contained in this Section 6-6 do not apply to signs, or  
10 promotional or advertising materials furnished by  
11 manufacturers, distributors or importing distributors to a  
12 government owned or operated facility holding a retailer's  
13 license as described in Section 6-5.

14           No distributor or importing distributor shall directly or  
15 indirectly or through a subsidiary or affiliate, or by any  
16 officer, director or firm of such manufacturer, distributor or  
17 importing distributor, furnish, give, lend or rent, install,  
18 repair or maintain, to or for any retail licensee in this  
19 State, any signs or inside advertising materials described in  
20 subparts (i), (ii), (iii), or (iv) of this Section except as  
21 the agent for or on behalf of a manufacturer, provided that the  
22 total cost of any signs and inside advertising materials  
23 including but not limited to labor, erection, installation and  
24 permit fees shall be paid by the manufacturer whose product or  
25 products said signs and inside advertising materials advertise  
26 and except as follows:

1           A distributor or importing distributor may purchase from or  
2 enter into a written agreement with a manufacturer or a  
3 manufacturer's designated supplier and such manufacturer or  
4 the manufacturer's designated supplier may sell or enter into  
5 an agreement to sell to a distributor or importing distributor  
6 permitted signs and advertising materials described in  
7 subparts (ii), (iii), or (iv) of this Section for the purpose  
8 of furnishing, giving, lending, renting, installing,  
9 repairing, or maintaining such signs or advertising materials  
10 to or for any retail licensee in this State. Any purchase by a  
11 distributor or importing distributor from a manufacturer or a  
12 manufacturer's designated supplier shall be voluntary and the  
13 manufacturer may not require the distributor or the importing  
14 distributor to purchase signs or advertising materials from the  
15 manufacturer or the manufacturer's designated supplier.

16           A distributor or importing distributor shall be deemed the  
17 owner of such signs or advertising materials purchased from a  
18 manufacturer or a manufacturer's designated supplier.

19           The provisions of Public Act 90-373 concerning signs or  
20 advertising materials delivered by a manufacturer to a  
21 distributor or importing distributor shall apply only to signs  
22 or advertising materials delivered on or after August 14, 1997.

23           No person engaged in the business of manufacturing,  
24 importing or distributing alcoholic liquors shall, directly or  
25 indirectly, pay for, or advance, furnish, or lend money for the  
26 payment of any license for another. Any licensee who shall

1 permit or assent, or be a party in any way to any violation or  
2 infringement of the provisions of this Section shall be deemed  
3 guilty of a violation of this Act, and any money loaned  
4 contrary to a provision of this Act shall not be recovered  
5 back, or any note, mortgage or other evidence of indebtedness,  
6 or security, or any lease or contract obtained or made contrary  
7 to this Act shall be unenforceable and void.

8 This Section shall not apply to airplane licensees  
9 exercising powers provided in paragraph (i) of Section 5-1 of  
10 this Act.

11 This Section does not authorize the State Commission to  
12 regulate beverage products that contain one-half of one per  
13 cent, or less, of alcohol by volume.

14 (Source: P.A. 89-238, eff. 8-4-95; 89-529, eff. 7-19-96;  
15 90-373, eff. 8-14-97; 90-432, eff. 1-1-98; 90-655, eff.  
16 7-30-98; revised 9-24-13.)