



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1855

Introduced 2/15/2013, by Sen. Antonio Muñoz - Terry Link - Kirk W. Dillard - Ira I. Silverstein - Dale A. Righter

SYNOPSIS AS INTRODUCED:

235 ILCS 5/1-3.39 new

235 ILCS 5/6-2

235 ILCS 5/6-4.5 new

from Ch. 43, par. 120

Amends the Liquor Control Act of 1934. Provides that no person licensed as a manufacturer of beer by any licensing authority, or any partnership, corporation, subsidiary, limited liability company, trust, agent, affiliate, or other form of business enterprise thereof, shall have any interest, directly or indirectly, in a holder of a distributor's license or importing distributor's license. Provides that the Illinois Liquor Control Commission shall notify all persons licensed by the State Commission as a manufacturer of beer, brewer, or non-resident dealer of the required written disclosures prescribed by the Commission. Provides a process for revocation of licenses for violation of these provisions. Defines "Person" for the purposes of the Act. Effective immediately.

LRB098 07888 MGM 37973 b

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 6-2 and by adding Sections 1-3.39 and 6-4.5 as
6 follows:

7 (235 ILCS 5/1-3.39 new)

8 Sec. 1-3.39. "Person" defined. For the purposes of this
9 Act, "person" means a natural person, partnership,
10 corporation, subsidiary, limited liability company, trust,
11 agent, affiliate, or other form of business enterprise.
12 "Person" also includes heirs, assigns, personal
13 representatives, and guardians.

14 (235 ILCS 5/6-2) (from Ch. 43, par. 120)

15 Sec. 6-2. Issuance of licenses to certain persons
16 prohibited.

17 (a) Except as otherwise provided in subsection (b) of this
18 Section and in paragraph (1) of subsection (a) of Section 3-12,
19 no license of any kind issued by the State Commission or any
20 local commission shall be issued to:

21 (1) A person who is not a resident of any city, village
22 or county in which the premises covered by the license are

1 located; except in case of railroad or boat licenses.

2 (2) A person who is not of good character and
3 reputation in the community in which he resides.

4 (3) A person who is not a citizen of the United States.

5 (4) A person who has been convicted of a felony under
6 any Federal or State law, unless the Commission determines
7 that such person has been sufficiently rehabilitated to
8 warrant the public trust after considering matters set
9 forth in such person's application and the Commission's
10 investigation. The burden of proof of sufficient
11 rehabilitation shall be on the applicant.

12 (5) A person who has been convicted of keeping a place
13 of prostitution or keeping a place of juvenile
14 prostitution, promoting prostitution that involves keeping
15 a place of prostitution, or promoting juvenile
16 prostitution that involves keeping a place of juvenile
17 prostitution.

18 (6) A person who has been convicted of pandering or
19 other crime or misdemeanor opposed to decency and morality.

20 (7) A person whose license issued under this Act has
21 been revoked for cause.

22 (8) A person who at the time of application for renewal
23 of any license issued hereunder would not be eligible for
24 such license upon a first application.

25 (9) A copartnership, if any general partnership
26 thereof, or any limited partnership thereof, owning more

1 than 5% of the aggregate limited partner interest in such
2 copartnership would not be eligible to receive a license
3 hereunder for any reason other than residence within the
4 political subdivision, unless residency is required by
5 local ordinance.

6 (10) A corporation or limited liability company, if any
7 member, officer, manager or director thereof, or any
8 stockholder or stockholders owning in the aggregate more
9 than 5% of the stock of such corporation, would not be
10 eligible to receive a license hereunder for any reason
11 other than citizenship and residence within the political
12 subdivision.

13 (10a) A corporation or limited liability company
14 unless it is incorporated or organized in Illinois, or
15 unless it is a foreign corporation or foreign limited
16 liability company which is qualified under the Business
17 Corporation Act of 1983 or the Limited Liability Company
18 Act to transact business in Illinois. The Commission shall
19 permit and accept from an applicant for a license under
20 this Act proof prepared from the Secretary of State's
21 website that the corporation or limited liability company
22 is in good standing and is qualified under the Business
23 Corporation Act of 1983 or the Limited Liability Company
24 Act to transact business in Illinois.

25 (11) A person whose place of business is conducted by a
26 manager or agent unless the manager or agent possesses the

1 same qualifications required by the licensee.

2 (12) A person who has been convicted of a violation of
3 any Federal or State law concerning the manufacture,
4 possession or sale of alcoholic liquor, subsequent to the
5 passage of this Act or has forfeited his bond to appear in
6 court to answer charges for any such violation.

7 (13) A person who does not beneficially own the
8 premises for which a license is sought, or does not have a
9 lease thereon for the full period for which the license is
10 to be issued.

11 (14) Any law enforcing public official, including
12 members of local liquor control commissions, any mayor,
13 alderman, or member of the city council or commission, any
14 president of the village board of trustees, any member of a
15 village board of trustees, or any president or member of a
16 county board; and no such official shall have a direct
17 interest in the manufacture, sale, or distribution of
18 alcoholic liquor, except that a license may be granted to
19 such official in relation to premises that are not located
20 within the territory subject to the jurisdiction of that
21 official if the issuance of such license is approved by the
22 State Liquor Control Commission and except that a license
23 may be granted, in a city or village with a population of
24 50,000 or less, to any alderman, member of a city council,
25 or member of a village board of trustees in relation to
26 premises that are located within the territory subject to

1 the jurisdiction of that official if (i) the sale of
2 alcoholic liquor pursuant to the license is incidental to
3 the selling of food, (ii) the issuance of the license is
4 approved by the State Commission, (iii) the issuance of the
5 license is in accordance with all applicable local
6 ordinances in effect where the premises are located, and
7 (iv) the official granted a license does not vote on
8 alcoholic liquor issues pending before the board or council
9 to which the license holder is elected. Notwithstanding any
10 provision of this paragraph (14) to the contrary, an
11 alderman or member of a city council or commission, a
12 member of a village board of trustees other than the
13 president of the village board of trustees, or a member of
14 a county board other than the president of a county board
15 may have a direct interest in the manufacture, sale, or
16 distribution of alcoholic liquor as long as he or she is
17 not a law enforcing public official, a mayor, a village
18 board president, or president of a county board. To prevent
19 any conflict of interest, the elected official with the
20 direct interest in the manufacture, sale, or distribution
21 of alcoholic liquor shall not participate in any meetings,
22 hearings, or decisions on matters impacting the
23 manufacture, sale, or distribution of alcoholic liquor.
24 Furthermore, the mayor of a city with a population of
25 50,000 or less or the president of a village with a
26 population of 50,000 or less may have an interest in the

1 manufacture, sale, or distribution of alcoholic liquor as
2 long as the council or board over which he or she presides
3 has made a local liquor control commissioner appointment
4 that complies with the requirements of Section 4-2 of this
5 Act.

6 (15) A person who is not a beneficial owner of the
7 business to be operated by the licensee.

8 (16) A person who has been convicted of a gambling
9 offense as proscribed by any of subsections (a) (3) through
10 (a) (11) of Section 28-1 of, or as proscribed by Section
11 28-1.1 or 28-3 of, the Criminal Code of 1961, or as
12 proscribed by a statute replaced by any of the aforesaid
13 statutory provisions.

14 (17) A person or entity to whom a federal wagering
15 stamp has been issued by the federal government, unless the
16 person or entity is eligible to be issued a license under
17 the Raffles Act or the Illinois Pull Tabs and Jar Games
18 Act.

19 (18) A person who intends to sell alcoholic liquors for
20 use or consumption on his or her licensed retail premises
21 who does not have liquor liability insurance coverage for
22 that premises in an amount that is at least equal to the
23 maximum liability amounts set out in subsection (a) of
24 Section 6-21.

25 (19) A person who is licensed by any licensing
26 authority as a manufacturer of beer, or any partnership,

1 corporation, subsidiary, limited liability company, trust,
2 agent or affiliate, or any other form of business
3 enterprise thereof, having any interest, directly or
4 indirectly, in a person licensed in this State as a
5 distributor or importing distributor.

6 (20) A person who is licensed in this State as a
7 distributor or importing distributor having any interest,
8 directly or indirectly, in a person licensed as a
9 manufacturer of beer by any licensing authority, or any
10 partnership, corporation, subsidiary, limited liability
11 company, trust, agent or affiliate, or any other form of
12 business enterprise thereof, except for persons who own no
13 more than 5% of the outstanding shares of a manufacturer of
14 beer whose shares are publicly traded on an exchange within
15 the meaning of the Securities Exchange Act of 1934.

16 (b) A criminal conviction of a corporation is not grounds
17 for the denial, suspension, or revocation of a license applied
18 for or held by the corporation if the criminal conviction was
19 not the result of a violation of any federal or State law
20 concerning the manufacture, possession or sale of alcoholic
21 liquor, the offense that led to the conviction did not result
22 in any financial gain to the corporation and the corporation
23 has terminated its relationship with each director, officer,
24 employee, or controlling shareholder whose actions directly
25 contributed to the conviction of the corporation. The
26 Commission shall determine if all provisions of this subsection

1 (b) have been met before any action on the corporation's
2 license is initiated.

3 (Source: P.A. 96-1551, eff. 7-1-11; 97-1059, eff. 8-24-12.)

4 (235 ILCS 5/6-4.5 new)

5 Sec. 6-4.5. Manufacturers with an interest in a distributor
6 or importing distributor.

7 (a) The General Assembly hereby restates its commitment to
8 the primary purpose of the Liquor Control Act of 1934, which is
9 to protect the health, safety, and welfare of the People of
10 Illinois through the sound and careful control and regulation
11 of the manufacture, distribution, and sale of alcoholic liquor
12 through independent licensees in a 3-tier regulatory system.
13 The State's 3-tier regulatory system is designed to prevent a
14 manufacturer or non-resident dealer, if the non-resident
15 dealer is also the manufacturer of alcoholic liquors, including
16 a partnership, corporation, subsidiary, limited liability
17 company, trust, agent, affiliate, or other form of business
18 enterprise thereof, from exercising vertical integration
19 between a manufacturer or non-resident dealer, if the
20 non-resident dealer is also the manufacturer of alcoholic
21 liquors, and a distributor, importing distributor, or retailer
22 through any ownership interest or through control.

23 (b) Notwithstanding any provision of this Act, no person
24 licensed as a manufacturer of beer by any licensing authority,
25 or any partnership, corporation, subsidiary, limited liability

1 company, trust, agent, affiliate, or other form of business
2 enterprise thereof, shall have any interest, directly or
3 indirectly, in a holder of a distributor's license or importing
4 distributor's license. Any such person who holds an interest in
5 a holder of a distributor's license or importing distributor's
6 license prior to this amendatory Act of the 98th General
7 Assembly shall, in accordance with paragraph (19) of subsection
8 (a) of Section 6-2, be ineligible to receive or hold a license
9 issued by the State Commission.

10 (c) The State Commission shall, within 30 days after the
11 effective date of this amendatory Act of the 98th General
12 Assembly, notify all persons licensed by the State Commission
13 as a manufacturer of beer, brewer, or non-resident dealer of
14 the provisions of subsection (b) of this Section. Such
15 manufacturer of beer, brewer, or non-resident dealer shall,
16 within 30 days after receiving the notice, file a written
17 disclosure with the Commission of all such interests in the
18 manner and form prescribed by the Commission. Any manufacturer
19 of beer, brewer, or non-resident dealer, who is also the
20 manufacturer of beer, who has disclosed any interest in a
21 distributor or importing distributor may request in its written
22 disclosure an additional period of time to divest such
23 interest. If such interest is not divested by the agreed time
24 by such manufacturer of beer, brewer, or non-resident dealer,
25 who is also the manufacturer of beer, the State Commission
26 shall, after notice and hearing, revoke the license upon the

1 State Commission's determination of a violation of subsection
2 (b) of this Section. The State Commission shall enter its order
3 within 90 days after the date of issuance of the notice of
4 revocation of the license. The State Commission may, upon good
5 cause, grant an extension to divest such interest for a
6 reasonable period of time not to exceed 24 months from the
7 effective date of this amendatory Act of the 98th General
8 Assembly.

9 In the event a timely request for a hearing is not received
10 and the manufacturer of beer, brewer, or non-resident dealer,
11 who is also the manufacturer of beer, is found in violation of
12 subsection (b) of this Section, such license issued to the
13 manufacturer of beer, brewer, or non-resident dealer, who is
14 also the manufacturer of beer, shall expire without further
15 action.

16 (d) Notwithstanding any provision of this Act, no person
17 licensed as a distributor or importing distributor shall have
18 any interest, directly or indirectly, in a person licensed as a
19 manufacturer of beer by any licensing authority, or any
20 partnership, corporation, subsidiary, limited liability
21 company, trust, agent or affiliate, or any other form of
22 business enterprise thereof, except for ownership of no more
23 than 5% of the outstanding shares of a manufacturer of beer
24 whose shares are publicly traded on an exchange within the
25 meaning of the Securities Exchange Act of 1934. Any person who
26 holds such an interest in a person licensed as a manufacturer

1 of beer by any licensing authority or any partnership,
2 corporation, subsidiary, limited liability company, trust,
3 agent or affiliate, or any other form of business enterprise
4 thereof, except for ownership of no more than 5% of the
5 outstanding shares of a manufacturer of beer whose shares are
6 publicly traded on an exchange within the meaning of the
7 Securities Exchange Act of 1934 prior to this amendatory Act of
8 the 98th General Assembly, shall, in accordance with paragraph
9 (20) of subsection (a) of Section 6-2, be ineligible to receive
10 or hold a license issued by the State Commission.

11 (e) The State Commission shall, within 30 days after the
12 effective date of this amendatory Act of the 98th General
13 Assembly, notify all persons licensed by the State Commission
14 as a distributor or importing distributor of the provisions of
15 subsection (d) of this Section. Such distributors or importing
16 distributors shall, within 30 days after receiving the notice,
17 file a written disclosure with the Commission of all such
18 interests greater than permitted by the provisions of
19 subsection (d) of this Section in the manner and form
20 prescribed by the Commission. Any distributor or importing
21 distributor who has disclosed any interest greater than
22 permitted by the provisions of subsection (d) may indicate in
23 its written disclosure a request for an additional period of
24 time to divest such interest. If such interest is not divested
25 by the agreed time by such distributor or importing
26 distributor, the State Commission, after notice and hearing,

1 shall revoke the license upon the State Commission's
2 determination of a violation of subsection (d) of this Section.
3 The State Commission shall enter its order within 90 days of
4 the date of issuance of the notice of revocation of the
5 license. The State Commission may, upon good cause, grant an
6 extension to divest such interest for a reasonable period of
7 time not to exceed 24 months from the effective date of this
8 amendatory Act of the 98th General Assembly.

9 In the event that a timely request for a hearing is not
10 received and the distributor or importing distributor is found
11 in violation of subsection (d) of this Section, such license
12 issued to the distributor or importing distributor shall expire
13 without further action.

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