



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 2584

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2584 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.

19 For the purpose of this paragraph (1), when determining  
20 multiple violations for the sale of alcohol to a person  
21 under the age of 21, a second or subsequent violation for  
22 the sale of alcohol to a person under the age of 21 shall  
23 only be considered if it was committed within 5 years after  
24 the date when a prior violation for the sale of alcohol to  
25 a person under the age of 21 was committed.

26 The fine imposed under this paragraph may not exceed

1       \$500 for each violation. Each day that the activity, which  
2       gave rise to the original fine, continues is a separate  
3       violation. The maximum fine that may be levied against any  
4       licensee, for the period of the license, shall not exceed  
5       \$20,000. The maximum penalty that may be imposed on a  
6       licensee for selling a bottle of alcoholic liquor with a  
7       foreign object in it or serving from a bottle of alcoholic  
8       liquor with a foreign object in it shall be the destruction  
9       of that bottle of alcoholic liquor for the first 10 bottles  
10      so sold or served from by the licensee. For the eleventh  
11      bottle of alcoholic liquor and for each third bottle  
12      thereafter sold or served from by the licensee with a  
13      foreign object in it, the maximum penalty that may be  
14      imposed on the licensee is the destruction of the bottle of  
15      alcoholic liquor and a fine of up to \$50.

16           (2) To adopt such rules and regulations consistent with  
17      the provisions of this Act which shall be necessary to  
18      carry on its functions and duties to the end that the  
19      health, safety and welfare of the People of the State of  
20      Illinois shall be protected and temperance in the  
21      consumption of alcoholic liquors shall be fostered and  
22      promoted and to distribute copies of such rules and  
23      regulations to all licensees affected thereby.

24           (3) To call upon other administrative departments of  
25      the State, county and municipal governments, county and  
26      city police departments and upon prosecuting officers for

1 such information and assistance as it deems necessary in  
2 the performance of its duties.

3 (4) To recommend to local commissioners rules and  
4 regulations, not inconsistent with the law, for the  
5 distribution and sale of alcoholic liquors throughout the  
6 State.

7 (5) To inspect, or cause to be inspected, any premises  
8 in this State where alcoholic liquors are manufactured,  
9 distributed, warehoused, or sold. Nothing in this Act  
10 authorizes an agent of the Commission to inspect private  
11 areas within the premises without reasonable suspicion or a  
12 warrant during an inspection. "Private areas" include, but  
13 are not limited to, safes, personal property, and closed  
14 desks.

15 (5.1) Upon receipt of a complaint or upon having  
16 knowledge that any person is engaged in business as a  
17 manufacturer, importing distributor, distributor, or  
18 retailer without a license or valid license, to notify the  
19 local liquor authority, file a complaint with the State's  
20 Attorney's Office of the county where the incident  
21 occurred, or initiate an investigation with the  
22 appropriate law enforcement officials.

23 (5.2) To issue a cease and desist notice to persons  
24 shipping alcoholic liquor into this State from a point  
25 outside of this State if the shipment is in violation of  
26 this Act.

1           (5.3) To receive complaints from licensees, local  
2 officials, law enforcement agencies, organizations, and  
3 persons stating that any licensee has been or is violating  
4 any provision of this Act or the rules and regulations  
5 issued pursuant to this Act. Such complaints shall be in  
6 writing, signed and sworn to by the person making the  
7 complaint, and shall state with specificity the facts in  
8 relation to the alleged violation. If the Commission has  
9 reasonable grounds to believe that the complaint  
10 substantially alleges a violation of this Act or rules and  
11 regulations adopted pursuant to this Act, it shall conduct  
12 an investigation. If, after conducting an investigation,  
13 the Commission is satisfied that the alleged violation did  
14 occur, it shall proceed with disciplinary action against  
15 the licensee as provided in this Act.

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

22           (7) The commission shall establish uniform systems of  
23 accounts to be kept by all retail licensees having more  
24 than 4 employees, and for this purpose the commission may  
25 classify all retail licensees having more than 4 employees  
26 and establish a uniform system of accounts for each class

1 and prescribe the manner in which such accounts shall be  
2 kept. The commission may also prescribe the forms of  
3 accounts to be kept by all retail licensees having more  
4 than 4 employees, including but not limited to accounts of  
5 earnings and expenses and any distribution, payment, or  
6 other distribution of earnings or assets, and any other  
7 forms, records and memoranda which in the judgment of the  
8 commission may be necessary or appropriate to carry out any  
9 of the provisions of this Act, including but not limited to  
10 such forms, records and memoranda as will readily and  
11 accurately disclose at all times the beneficial ownership  
12 of such retail licensed business. The accounts, forms,  
13 records and memoranda shall be available at all reasonable  
14 times for inspection by authorized representatives of the  
15 State commission or by any local liquor control  
16 commissioner or his or her authorized representative. The  
17 commission, may, from time to time, alter, amend or repeal,  
18 in whole or in part, any uniform system of accounts, or the  
19 form and manner of keeping accounts.

20 (8) In the conduct of any hearing authorized to be held  
21 by the commission, to appoint, at the commission's  
22 discretion, hearing officers to conduct hearings involving  
23 complex issues or issues that will require a protracted  
24 period of time to resolve, to examine, or cause to be  
25 examined, under oath, any licensee, and to examine or cause  
26 to be examined the books and records of such licensee; to

1           hear testimony and take proof material for its information  
2           in the discharge of its duties hereunder; to administer or  
3           cause to be administered oaths; for any such purpose to  
4           issue subpoena or subpoenas to require the attendance of  
5           witnesses and the production of books, which shall be  
6           effective in any part of this State, and to adopt rules to  
7           implement its powers under this paragraph (8).

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 930,000 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 930,000 gallons of beer per annum or produces  
12 any other alcoholic beverages; (3) shall not annually  
13 manufacture for sale more than 930,000 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 930,000 gallons of beer in  
26 any calendar year or became part of an affiliated group

1 manufacturing more than 930,000 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. 97-5, eff. 6-1-11; 98-401, eff. 8-16-13.)".