

# HB3237



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3237

by Rep. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

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. In provisions that prohibit liquor distributors and manufacturers from giving, and retail licensees from receiving, anything of value, provides that a manufacturer, distributor or importing distributor may furnish free social media advertising to a person having a retail license if the social media advertisement does not contain the retail price of any alcoholic liquor. Defines "social media". Effective immediately.

LRB099 07830 RPS 27965 b

A BILL FOR

1 AN ACT concerning liquor.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Liquor Control Act of 1934 is amended by  
5 changing Sections 6-5 and 6-6 as follows:

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

7 Sec. 6-5. Except as otherwise provided in this Section, it  
8 is unlawful for any person having a retailer's license or any  
9 officer, associate, member, representative or agent of such  
10 licensee to accept, receive or borrow money, or anything else  
11 of value, or accept or receive credit (other than merchandising  
12 credit in the ordinary course of business for a period not to  
13 exceed 30 days) directly or indirectly from any manufacturer,  
14 importing distributor or distributor of alcoholic liquor, or  
15 from any person connected with or in any way representing, or  
16 from any member of the family of, such manufacturer, importing  
17 distributor, distributor or wholesaler, or from any  
18 stockholders in any corporation engaged in manufacturing,  
19 distributing or wholesaling of such liquor, or from any  
20 officer, manager, agent or representative of said  
21 manufacturer. Except as provided below, it is unlawful for any  
22 manufacturer or distributor or importing distributor to give or  
23 lend money or anything of value, or otherwise loan or extend

1 credit (except such merchandising credit) directly or  
2 indirectly to any retail licensee or to the manager,  
3 representative, agent, officer or director of such licensee. A  
4 manufacturer, distributor or importing distributor may furnish  
5 free advertising, posters, signs, brochures, hand-outs, or  
6 other promotional devices or materials to any unit of  
7 government owning or operating any auditorium, exhibition  
8 hall, recreation facility or other similar facility holding a  
9 retailer's license, provided that the primary purpose of such  
10 promotional devices or materials is to promote public events  
11 being held at such facility. A unit of government owning or  
12 operating such a facility holding a retailer's license may  
13 accept such promotional devices or materials designed  
14 primarily to promote public events held at the facility. No  
15 retail licensee delinquent beyond the 30 day period specified  
16 in this Section shall solicit, accept or receive credit,  
17 purchase or acquire alcoholic liquors, directly or indirectly  
18 from any other licensee, and no manufacturer, distributor or  
19 importing distributor shall knowingly grant or extend credit,  
20 sell, furnish or supply alcoholic liquors to any such  
21 delinquent retail licensee; provided that the purchase price of  
22 all beer sold to a retail licensee shall be paid by the retail  
23 licensee in cash on or before delivery of the beer, and unless  
24 the purchase price payable by a retail licensee for beer sold  
25 to him in returnable bottles shall expressly include a charge  
26 for the bottles and cases, the retail licensee shall, on or

1 before delivery of such beer, pay the seller in cash a deposit  
2 in an amount not less than the deposit required to be paid by  
3 the distributor to the brewer; but where the brewer sells  
4 direct to the retailer, the deposit shall be an amount no less  
5 than that required by the brewer from his own distributors; and  
6 provided further, that in no instance shall this deposit be  
7 less than 50 cents for each case of beer in pint or smaller  
8 bottles and 60 cents for each case of beer in quart or  
9 half-gallon bottles; and provided further, that the purchase  
10 price of all beer sold to an importing distributor or  
11 distributor shall be paid by such importing distributor or  
12 distributor in cash on or before the 15th day (Sundays and  
13 holidays excepted) after delivery of such beer to such  
14 purchaser; and unless the purchase price payable by such  
15 importing distributor or distributor for beer sold in  
16 returnable bottles and cases shall expressly include a charge  
17 for the bottles and cases, such importing distributor or  
18 distributor shall, on or before the 15th day (Sundays and  
19 holidays excepted) after delivery of such beer to such  
20 purchaser, pay the seller in cash a required amount as a  
21 deposit to assure the return of such bottles and cases. Nothing  
22 herein contained shall prohibit any licensee from crediting or  
23 refunding to a purchaser the actual amount of money paid for  
24 bottles, cases, kegs or barrels returned by the purchaser to  
25 the seller or paid by the purchaser as a deposit on bottles,  
26 cases, kegs or barrels, when such containers or packages are

1 returned to the seller. Nothing herein contained shall prohibit  
2 any manufacturer, importing distributor or distributor from  
3 extending usual and customary credit for alcoholic liquor sold  
4 to customers or purchasers who live in or maintain places of  
5 business outside of this State when such alcoholic liquor is  
6 actually transported and delivered to such points outside of  
7 this State.

8 A manufacturer, distributor, or importing distributor may  
9 furnish free social media advertising to a person having a  
10 retail license if the social media advertisement does not  
11 contain the retail price of any alcoholic liquor. For the  
12 purposes of this Section, "social media" means a service,  
13 platform, or site where users communicate with one another and  
14 share media, such as pictures, videos, music, and blogs, with  
15 other users free of charge.

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

4 (235 ILCS 5/6-6) (from Ch. 43, par. 123)

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

25 No manufacturer or distributor or importing distributor



1 shall, directly or indirectly or through a subsidiary or  
2 affiliate, or by any officer, director or firm of such  
3 manufacturer, distributor or importing distributor, furnish,  
4 give, lend or rent, install, repair or maintain, to or for any  
5 retail licensee in this State, any signs or inside advertising  
6 materials except as provided in this Section and Section 6-5.  
7 With respect to retail licensees, other than any government  
8 owned or operated auditorium, exhibition hall, recreation  
9 facility or other similar facility holding a retailer's license  
10 as described in Section 6-5, a manufacturer, distributor, or  
11 importing distributor may furnish, give, lend or rent and  
12 erect, install, repair and maintain to or for any retail  
13 licensee, for use at any one time in or about or in connection  
14 with a retail establishment on which the products of the  
15 manufacturer, distributor or importing distributor are sold,  
16 the following signs and inside advertising materials as  
17 authorized in subparts (i), (ii), (iii), and (iv):

18 (i) Permanent outside signs shall be limited to one  
19 outside sign, per brand, in place and in use at any one  
20 time, costing not more than \$893, exclusive of erection,  
21 installation, repair and maintenance costs, and permit  
22 fees and shall bear only the manufacturer's name, brand  
23 name, trade name, slogans, markings, trademark, or other  
24 symbols commonly associated with and generally used in  
25 identifying the product including, but not limited to,  
26 "cold beer", "on tap", "carry out", and "packaged liquor".

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

1 temporary outside signs provided by the manufacturer to the  
2 distributor or importing distributor may also include, for  
3 example, subject to the limitations of this Section,  
4 preprinted community goodwill expressions, sporting event  
5 announcements, seasonal messages, and manufacturer  
6 promotional announcements. However, a distributor or  
7 importing distributor shall not bear the cost of such  
8 manufacturer preprinted signs.

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

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

25 A "cost adjustment factor" shall be used to periodically  
26 update the dollar limitations prescribed in subparts (i),

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

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

24 A distributor or importing distributor may purchase from or  
25 enter into a written agreement with a manufacturer or a  
26 manufacturer's designated supplier and such manufacturer or

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

13 A distributor or importing distributor shall be deemed the  
14 owner of such signs or advertising materials purchased from a  
15 manufacturer or a manufacturer's designated supplier.

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

20 A manufacturer, distributor, or importing distributor may  
21 furnish free social media advertising to a person having a  
22 retail license if the social media advertisement does not  
23 contain the retail price of any alcoholic liquor. For the  
24 purposes of this Section, "social media" means a service,  
25 platform, or site where users communicate with one another and  
26 share media, such as pictures, videos, music, and blogs, with

1 other users free of charge.

2 No person engaged in the business of manufacturing,  
3 importing or distributing alcoholic liquors shall, directly or  
4 indirectly, pay for, or advance, furnish, or lend money for the  
5 payment of any license for another. Any licensee who shall  
6 permit or assent, or be a party in any way to any violation or  
7 infringement of the provisions of this Section shall be deemed  
8 guilty of a violation of this Act, and any money loaned  
9 contrary to a provision of this Act shall not be recovered  
10 back, or any note, mortgage or other evidence of indebtedness,  
11 or security, or any lease or contract obtained or made contrary  
12 to this Act shall be unenforceable and void.

13 This Section shall not apply to airplane licensees  
14 exercising powers provided in paragraph (i) of Section 5-1 of  
15 this Act.

16 (Source: P.A. 98-756, eff. 7-16-14.)

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.