



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4018

by Rep. Frank J. Mautino and Lou Lang

#### SYNOPSIS AS INTRODUCED:

235 ILCS 5/1-3.40 new  
235 ILCS 5/1-3.41 new  
235 ILCS 5/6-6.3 new

Amends the Liquor Control Act of 1934. Provides that specified licensees under the Act may sell non-alcoholic merchandise to retail licensees if certain conditions are met. Provides that nothing in the Act authorizes the Illinois Liquor Control Commission to regulate or exercise jurisdiction over any transaction involving the furnishing, selling, or offering for sale of non-alcoholic merchandise by manufacturers, distributors, or retailers, unless the transaction involves expressed or implied agreements or understandings prohibited by the Act. Provides certain restrictions on transactions involving the sale of non-alcoholic merchandise, including a prohibition on conditioning the sale of alcoholic liquor on the sale of non-alcoholic merchandise. Contains provisions concerning the furnishing of fixtures, equipment, and furnishings related to non-alcoholic merchandise to retail licensees. Defines "manufacturer class license holder" and "non-alcoholic merchandise". Makes other changes. Effective immediately.

LRB099 07839 RPS 27974 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 adding Sections 1-3.40, 1-3.41, and 6-6.3 and by changing  
6 Section 6-6 as follows:

7 (235 ILCS 5/1-3.40 new)

8 Sec. 1-3.40. Manufacturer class license holder.

9 "Manufacturer class license holder" means any holder of a  
10 Manufacturer's license as provided in Section 5-1 of this Act.

11 The Manufacturer's licenses are: Distiller; Rectifier; Brewer;

12 First Class Wine Manufacturer; Second Class Wine Manufacturer;

13 First Class Winemaker; Second Class Winemaker; Limited Wine

14 Manufacturer; Craft Distiller; Craft Brewer; and any future

15 Manufacturer's licenses established by law.

16 (235 ILCS 5/1-3.41 new)

17 Sec. 1-3.41. Non-alcoholic merchandise. "Non-alcoholic

18 merchandise" means any good or commodity that contains less

19 than 0.5% alcohol by volume. "Non-alcoholic merchandise" does

20 not include trade fixtures, equipment, or furnishings that are

21 used or intended for the limited purpose of storing, servicing,

22 displaying, advertising, furnishing, selling, or aiding in the

1 sale of alcoholic liquor.

2 (235 ILCS 5/6-6.3 new)

3 Sec. 6-6.3. Non-alcoholic merchandise.

4 (a) Nothing in this Act authorizes the State Commission to  
5 regulate or exercise jurisdiction over any transaction  
6 involving the furnishing, selling, or offering for sale of  
7 non-alcoholic merchandise by manufacturers, distributors, or  
8 retailers, unless the transaction involves expressed or  
9 implied agreements or understandings prohibited by this Act.

10 (b) Non-alcoholic merchandise may be sold to a retail  
11 licensee by a manufacturer class license holder, non-resident  
12 dealer, foreign importer, importing distributor, or  
13 distributor if:

14 (1) the manufacturer class license holder,  
15 non-resident dealer, foreign importer, importing  
16 distributor, or distributor is also in business as a bona  
17 fide producer or vendor of other merchandise;

18 (2) the non-alcoholic merchandise is sold at its fair  
19 market value;

20 (2) the non-alcoholic merchandise is not sold in  
21 combination with alcoholic liquor or conditioned on the  
22 sale of alcoholic liquor;

23 (3) the manufacturer class license holder's,  
24 non-resident dealer's, foreign importer's, importing  
25 distributor's, or distributor's acquisition or production

1 costs of the non-alcoholic merchandise appear on the  
2 manufacturer class license holder's, non-resident  
3 dealer's, foreign importer's, importing distributor's, or  
4 distributor's purchase invoices or other records;

5 (4) the individual selling prices of the non-alcoholic  
6 merchandise and the alcoholic liquors sold in a single  
7 transaction can be determined from commercial documents  
8 covering the sales transaction if non-alcoholic  
9 merchandise is sold in the same transaction as alcoholic  
10 liquor; and

11 (5) the price is collected by the manufacturer class  
12 license holder, non-resident dealer, or foreign importer  
13 within 30 days of the date of the sale, unless other terms  
14 are established by a writing between the parties.

15 (c) The State Commission may not prohibit the sale of  
16 non-alcoholic merchandise if it is sold in the manner in which  
17 the non-alcoholic merchandise is sold by a manufacturer or  
18 distributor that is not licensed by the State Commission.  
19 However, all invoices for non-alcoholic merchandise sold by a  
20 manufacturer class license holder, non-resident dealer,  
21 foreign importer, importing distributor, or distributor that  
22 is also in business as a bona fide producer or vendor of other  
23 merchandise must be in compliance with the requirements of 11  
24 Ill. Adm. Code 100.130. If non-alcoholic merchandise is sold on  
25 the same invoice as an alcoholic liquor product, the 30-day  
26 merchandising credit provisions of Section 6-5 of the Act shall

1 apply to the entire transaction, including the non-alcoholic  
2 merchandise.

3 (d) Except as provided in subsection (f), a manufacturer  
4 class license holder, non-resident dealer, foreign importer,  
5 importing distributor, or distributor that is also in business  
6 as a bona fide producer or vendor of non-alcoholic merchandise  
7 shall not condition the sale of its alcoholic liquor on the  
8 sale of its non-alcoholic merchandise and shall not combine the  
9 sale of its alcoholic liquor with the sale of its non-alcoholic  
10 merchandise. A manufacturer class license holder, non-resident  
11 dealer, foreign importer, importing distributor, or  
12 distributor that is also in business as a bona fide producer or  
13 vendor of non-alcoholic merchandise may sell, market, and  
14 promote non-alcoholic merchandise in the same manner in which  
15 the non-alcoholic merchandise is sold, marketed, or promoted by  
16 a manufacturer or distributor that is not licensed by the State  
17 Commission.

18 (e) Notwithstanding the prohibited furnishing or providing  
19 of fixtures, equipment, and furnishings to retailers, as  
20 provided in Section 6-6 of this Act, the act of a manufacturer  
21 class license holder, non-resident dealer, foreign importer,  
22 importing distributor, or distributor furnishing or providing  
23 retailers with fixtures, equipment, or furnishings for the  
24 limited purpose of storing, servicing, displaying,  
25 advertising, furnishing, selling, or aiding in the sale of  
26 non-alcoholic merchandise is permitted only to the extent

1 allowed by this Section. Such fixtures, equipment, or  
2 furnishings shall not be used by the retail licensee to store,  
3 service, display, advertise, furnish, sell, or aid in the sale  
4 of alcoholic liquors. All such fixtures, equipment, or  
5 furnishings shall be identified by the retail licensee as being  
6 furnished by a manufacturer class license holder, non-resident  
7 dealer, foreign importer, importing distributor, or  
8 distributor licensed by the State Commission and, if purchased  
9 by the retail licensee and sold on the same invoice as  
10 alcoholic liquor, the price must be collected by the  
11 manufacturer class license holder, non-resident dealer,  
12 foreign importer, importing distributor, or distributor within  
13 30 days of the date of sale.

14 (f) Notwithstanding any provision of this Act to the  
15 contrary, a manufacturer class license holder, non-resident  
16 dealer, foreign importer, importing distributor, or  
17 distributor may package and distribute alcoholic liquor in  
18 combination with non-alcoholic merchandise if the alcoholic  
19 liquor and non-alcoholic merchandise was originally packaged  
20 together for ultimate sale to consumers by the manufacturer.

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.