



Rep. Frank J. Mautino

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09900HB4018ham001

LRB099 07839 RPS 33093 a

1 AMENDMENT TO HOUSE BILL 4018

2 AMENDMENT NO. _____. Amend House Bill 4018 by replacing
3 everything after the enacting clause with the following:

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 as follows:

6 (235 ILCS 5/1-3.40 new)

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

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

10 The Manufacturer's licenses are: a Class 1. Distiller, a Class
11 2. Rectifier, a Class 3. Brewer, a Class 4. First Class Wine
12 Manufacturer, a Class 5. Second Class Wine Manufacturer, a
13 Class 6. First Class Winemaker, a Class 7. Second Class
14 Winemaker, a Class 8. Limited Wine Manufacturer, a Class 9.
15 Craft Distiller, and a Class 10. Craft Brewer and any future
16 Manufacturer's licenses established by law.

1 (235 ILCS 5/1-3.41 new)

2 Sec. 1-3.41. Non-alcoholic merchandise. "Non-alcoholic
3 merchandise" means any good or commodity that contains less
4 than 0.5 percent alcohol by volume. For purposes of this Act,
5 "non-alcoholic merchandise" does not include trade fixtures,
6 equipment, or furnishings that are used or intended for the
7 limited purpose of storing, servicing, displaying,
8 advertising, furnishing, selling, or aiding in the sale of
9 alcoholic liquors.

10 (235 ILCS 5/6-6.3 new)

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

12 (a) Nothing in this Act shall authorize the Illinois Liquor
13 Control Commission to regulate or exercise jurisdiction over
14 any action, transaction, and business of manufacturers,
15 distributors, or retailers engaged in any transaction
16 involving the furnishing, selling, or offering for sale of
17 non-alcoholic merchandise by manufacturers, distributors, or
18 retailers, unless the transaction involves expressed or
19 implied agreements or understandings prohibited by this Act.

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

23 (1) the manufacturer class license holder,
24 non-resident dealer, foreign importer, importing

1 distributor, or distributor is also in business as a bona
2 fide producer or vendor of other merchandise;

3 (2) the merchandise is sold at its fair market value;

4 (3) the non-alcoholic merchandise is not sold in
5 combination with alcoholic liquor or conditioned on the
6 sale of alcoholic liquor;

7 (4) the manufacturer class license holder's,
8 non-resident dealer's, foreign importer's, importing
9 distributor's, or distributor's acquisition or production
10 costs of the non-alcoholic merchandise appear on the
11 manufacturer class license holder's, non-resident
12 dealer's, foreign importer's, importing distributor's, or
13 distributor's purchase invoices or other records;

14 (5) the individual selling prices of the non-alcoholic
15 merchandise and alcoholic liquor sold in a single
16 transaction can be determined from commercial documents
17 covering the sales transaction if non-alcoholic
18 merchandise is sold in the same transaction as alcoholic
19 liquor; and

20 (6) the price is collected by the manufacturer class
21 license holder, non-resident dealer, foreign importer, or
22 distributor within 30 days of the date of the sale, unless
23 other terms are established in writing between the parties.

24 (c) The State Commission may not prohibit the sale of
25 non-alcoholic merchandise if it is sold in the manner in which
26 the non-alcoholic merchandise is sold by a manufacturer or

1 distributor that is not licensed by the State Commission;
2 provided, however, that all invoices for non-alcoholic
3 merchandise sold by a manufacturer class license holder,
4 non-resident dealer, foreign importer, importing distributor,
5 or distributor that is also in business as a bona fide producer
6 or vendor of other merchandise must be in compliance with the
7 books and records requirements of 11 Ill. Adm. Code 100.130. If
8 the non-alcoholic merchandise is sold on the same invoice as
9 alcoholic liquor product, the 30-day merchandising credit
10 provisions of Section 6-5 of this Act shall apply to the entire
11 transaction, including the non-alcoholic merchandise.

12 (d) Except as provided in subsection (f), a manufacturer
13 class license holder, non-resident dealer, foreign importer,
14 importing distributor, or distributor that is also in business
15 as a bona fide producer or vendor of non-alcoholic merchandise
16 shall not condition the sale of its alcoholic liquor on the
17 sale of its non-alcoholic merchandise and shall not combine the
18 sale of its alcoholic liquor with the sale of its non-alcoholic
19 merchandise. A manufacturer class license holder, non-resident
20 dealer, foreign importer, importing distributor, or
21 distributor that is also in business as a bona fide producer or
22 vendor of non-alcoholic merchandise may sell, market, and
23 promote non-alcoholic merchandise in the same manner in which
24 the non-alcoholic merchandise is sold, marketed, or promoted by
25 a manufacturer or distributor not licensed by the State
26 Commission.

1 (e) Notwithstanding the prohibited furnishing or providing
2 of fixtures, equipment, and furnishings to retailers as
3 contained in Section 6-6 of this Act, the act of a manufacturer
4 class license holder, non-resident dealer, foreign importer,
5 importing distributor, or distributor furnishing or providing
6 retailers with fixtures, equipment, or furnishings for the
7 limited purpose of storing, servicing, displaying,
8 advertising, furnishing, selling, or aiding in the sale of
9 non-alcoholic merchandise is permitted, only to the extent
10 allowed by this Section, and such fixtures, equipment, and
11 furnishings shall not be used by the retail licensee to store,
12 service, display, advertise, furnish, sell, or aid in the sale
13 of alcoholic liquors. All such fixtures, equipment, or
14 furnishings shall be identified by the retail licensee as being
15 furnished by a manufacturer class license holder, non-resident
16 dealer, foreign importer, importing distributor, or
17 distributor licensed by the State Commission and, if purchased
18 by the retail licensee and sold on the same invoice as
19 alcoholic liquor products, the price must be collected by the
20 manufacturer class license holder, non-resident dealer,
21 foreign importer, importing distributor, or distributor
22 selling the same within 30 days of the date of sale.

23 (f) Notwithstanding any provision of this Act to the
24 contrary, a manufacturer class license holder, non-resident
25 dealer, foreign importer, importing distributor, or
26 distributor may package and distribute alcoholic liquor in

1 combination with other non-alcoholic merchandise products if
2 the alcoholic liquor and non-alcoholic merchandise was
3 originally packaged together for ultimate sale to consumers by
4 the manufacturer or agent of the manufacturer as originally
5 packaged by the manufacturer or agent of the manufacturer for
6 ultimate sale to consumers.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".