

# SB1516



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1516

Introduced 2/20/2015, by Sen. John G. Mulroe

#### SYNOPSIS AS INTRODUCED:

235 ILCS 5/3-12

Amends the Liquor Control Act of 1934. Authorizes the Illinois Liquor Control Commission to, in its discretion, honor requests for interpretive opinions and issue reasonable directions and guidelines not inconsistent with the provisions of the Act. Requires all interpretive opinions, directions, and guidelines of a general character to be sent electronically to all licensees and to be posted on the Commission's website. Contains a nonacceleration provision. Effective immediately.

LRB099 07834 RPS 27969 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 changing Section 3-12 as follows:

6 (235 ILCS 5/3-12)

7 (Text of Section before amendment by P.A. 98-939)

8 Sec. 3-12. Powers and duties of State Commission.

9 (a) The State commission shall have the following powers,  
10 functions, and duties:

11 (1) To receive applications and to issue licenses to  
12 manufacturers, foreign importers, importing distributors,  
13 distributors, non-resident dealers, on premise consumption  
14 retailers, off premise sale retailers, special event  
15 retailer licensees, special use permit licenses, auction  
16 liquor licenses, brew pubs, caterer retailers,  
17 non-beverage users, railroads, including owners and  
18 lessees of sleeping, dining and cafe cars, airplanes,  
19 boats, brokers, and wine maker's premises licensees in  
20 accordance with the provisions of this Act, and to suspend  
21 or revoke such licenses upon the State commission's  
22 determination, upon notice after hearing, that a licensee  
23 has violated any provision of this Act or any rule or

1 regulation issued pursuant thereto and in effect for 30  
2 days prior to such violation. Except in the case of an  
3 action taken pursuant to a violation of Section 6-3, 6-5,  
4 or 6-9, any action by the State Commission to suspend or  
5 revoke a licensee's license may be limited to the license  
6 for the specific premises where the violation occurred.

7 In lieu of suspending or revoking a license, the  
8 commission may impose a fine, upon the State commission's  
9 determination and notice after hearing, that a licensee has  
10 violated any provision of this Act or any rule or  
11 regulation issued pursuant thereto and in effect for 30  
12 days prior to such violation.

13 For the purpose of this paragraph (1), when determining  
14 multiple violations for the sale of alcohol to a person  
15 under the age of 21, a second or subsequent violation for  
16 the sale of alcohol to a person under the age of 21 shall  
17 only be considered if it was committed within 5 years after  
18 the date when a prior violation for the sale of alcohol to  
19 a person under the age of 21 was committed.

20 The fine imposed under this paragraph may not exceed  
21 \$500 for each violation. Each day that the activity, which  
22 gave rise to the original fine, continues is a separate  
23 violation. The maximum fine that may be levied against any  
24 licensee, for the period of the license, shall not exceed  
25 \$20,000. The maximum penalty that may be imposed on a  
26 licensee for selling a bottle of alcoholic liquor with a

1 foreign object in it or serving from a bottle of alcoholic  
2 liquor with a foreign object in it shall be the destruction  
3 of that bottle of alcoholic liquor for the first 10 bottles  
4 so sold or served from by the licensee. For the eleventh  
5 bottle of alcoholic liquor and for each third bottle  
6 thereafter sold or served from by the licensee with a  
7 foreign object in it, the maximum penalty that may be  
8 imposed on the licensee is the destruction of the bottle of  
9 alcoholic liquor and a fine of up to \$50.

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

18 (3) To call upon other administrative departments of  
19 the State, county and municipal governments, county and  
20 city police departments and upon prosecuting officers for  
21 such information and assistance as it deems necessary in  
22 the performance of its duties.

23 (4) To recommend to local commissioners rules and  
24 regulations, not inconsistent with the law, for the  
25 distribution and sale of alcoholic liquors throughout the  
26 State.

1           (4.5) To, in its discretion, honor requests for  
2           interpretive opinions and issue reasonable directions and  
3           guidelines that are not inconsistent with the provisions of  
4           the Act. All interpretive opinions, directions, and  
5           guidelines of a general character shall be sent  
6           electronically to all licensees and shall be posted on the  
7           State Commission's website.

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

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

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

1           this Act.

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

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

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

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

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

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

9 Any Circuit Court may by order duly entered, require  
10 the attendance of witnesses and the production of relevant  
11 books subpoenaed by the State commission and the court may  
12 compel obedience to its order by proceedings for contempt.

13 (9) To investigate the administration of laws in  
14 relation to alcoholic liquors in this and other states and  
15 any foreign countries, and to recommend from time to time  
16 to the Governor and through him or her to the legislature  
17 of this State, such amendments to this Act, if any, as it  
18 may think desirable and as will serve to further the  
19 general broad purposes contained in Section 1-2 hereof.

20 (10) To adopt such rules and regulations consistent  
21 with the provisions of this Act which shall be necessary  
22 for the control, sale or disposition of alcoholic liquor  
23 damaged as a result of an accident, wreck, flood, fire or  
24 other similar occurrence.

25 (11) To develop industry educational programs related  
26 to responsible serving and selling, particularly in the



1 areas of overserving consumers and illegal underage  
2 purchasing and consumption of alcoholic beverages.

3 (11.1) To license persons providing education and  
4 training to alcohol beverage sellers and servers under the  
5 Beverage Alcohol Sellers and Servers Education and  
6 Training (BASSET) programs and to develop and administer a  
7 public awareness program in Illinois to reduce or eliminate  
8 the illegal purchase and consumption of alcoholic beverage  
9 products by persons under the age of 21. Application for a  
10 license shall be made on forms provided by the State  
11 Commission.

12 (12) To develop and maintain a repository of license  
13 and regulatory information.

14 (13) On or before January 15, 1994, the Commission  
15 shall issue a written report to the Governor and General  
16 Assembly that is to be based on a comprehensive study of  
17 the impact on and implications for the State of Illinois of  
18 Section 1926 of the Federal ADAMHA Reorganization Act of  
19 1992 (Public Law 102-321). This study shall address the  
20 extent to which Illinois currently complies with the  
21 provisions of P.L. 102-321 and the rules promulgated  
22 pursuant thereto.

23 As part of its report, the Commission shall provide the  
24 following essential information:

25 (i) the number of retail distributors of tobacco  
26 products, by type and geographic area, in the State;

1           (ii) the number of reported citations and  
2           successful convictions, categorized by type and  
3           location of retail distributor, for violation of the  
4           Prevention of Tobacco Use by Minors and Sale and  
5           Distribution of Tobacco Products Act and the Smokeless  
6           Tobacco Limitation Act;

7           (iii) the extent and nature of organized  
8           educational and governmental activities that are  
9           intended to promote, encourage or otherwise secure  
10          compliance with any Illinois laws that prohibit the  
11          sale or distribution of tobacco products to minors; and

12          (iv) the level of access and availability of  
13          tobacco products to individuals under the age of 18.

14          To obtain the data necessary to comply with the  
15          provisions of P.L. 102-321 and the requirements of this  
16          report, the Commission shall conduct random, unannounced  
17          inspections of a geographically and scientifically  
18          representative sample of the State's retail tobacco  
19          distributors.

20          The Commission shall consult with the Department of  
21          Public Health, the Department of Human Services, the  
22          Illinois State Police and any other executive branch  
23          agency, and private organizations that may have  
24          information relevant to this report.

25          The Commission may contract with the Food and Drug  
26          Administration of the U.S. Department of Health and Human

1 Services to conduct unannounced investigations of Illinois  
2 tobacco vendors to determine compliance with federal laws  
3 relating to the illegal sale of cigarettes and smokeless  
4 tobacco products to persons under the age of 18.

5 (14) On or before April 30, 2008 and every 2 years  
6 thereafter, the Commission shall present a written report  
7 to the Governor and the General Assembly that shall be  
8 based on a study of the impact of this amendatory Act of  
9 the 95th General Assembly on the business of soliciting,  
10 selling, and shipping wine from inside and outside of this  
11 State directly to residents of this State. As part of its  
12 report, the Commission shall provide all of the following  
13 information:

14 (A) The amount of State excise and sales tax  
15 revenues generated.

16 (B) The amount of licensing fees received.

17 (C) The number of cases of wine shipped from inside  
18 and outside of this State directly to residents of this  
19 State.

20 (D) The number of alcohol compliance operations  
21 conducted.

22 (E) The number of winery shipper's licenses  
23 issued.

24 (F) The number of each of the following: reported  
25 violations; cease and desist notices issued by the  
26 Commission; notices of violations issued by the

1 Commission and to the Department of Revenue; and  
2 notices and complaints of violations to law  
3 enforcement officials, including, without limitation,  
4 the Illinois Attorney General and the U.S. Department  
5 of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

6 (15) As a means to reduce the underage consumption of  
7 alcoholic liquors, the Commission shall conduct alcohol  
8 compliance operations to investigate whether businesses  
9 that are soliciting, selling, and shipping wine from inside  
10 or outside of this State directly to residents of this  
11 State are licensed by this State or are selling or  
12 attempting to sell wine to persons under 21 years of age in  
13 violation of this Act.

14 (16) The Commission shall, in addition to notifying any  
15 appropriate law enforcement agency, submit notices of  
16 complaints or violations of Sections 6-29 and 6-29.1 by  
17 persons who do not hold a winery shipper's license under  
18 this amendatory Act to the Illinois Attorney General and to  
19 the U.S. Department of Treasury's Alcohol and Tobacco Tax  
20 and Trade Bureau.

21 (17) (A) A person licensed to make wine under the laws  
22 of another state who has a winery shipper's license under  
23 this amendatory Act and annually produces less than 25,000  
24 gallons of wine or a person who has a first-class or  
25 second-class wine manufacturer's license, a first-class or  
26 second-class wine-maker's license, or a limited wine

1 manufacturer's license under this Act and annually  
2 produces less than 25,000 gallons of wine may make  
3 application to the Commission for a self-distribution  
4 exemption to allow the sale of not more than 5,000 gallons  
5 of the exemption holder's wine to retail licensees per  
6 year.

7 (B) In the application, which shall be sworn under  
8 penalty of perjury, such person shall state (1) the  
9 date it was established; (2) its volume of production  
10 and sales for each year since its establishment; (3)  
11 its efforts to establish distributor relationships;  
12 (4) that a self-distribution exemption is necessary to  
13 facilitate the marketing of its wine; and (5) that it  
14 will comply with the liquor and revenue laws of the  
15 United States, this State, and any other state where it  
16 is licensed.

17 (C) The Commission shall approve the application  
18 for a self-distribution exemption if such person: (1)  
19 is in compliance with State revenue and liquor laws;  
20 (2) is not a member of any affiliated group that  
21 produces more than 25,000 gallons of wine per annum or  
22 produces any other alcoholic liquor; (3) will not  
23 annually produce for sale more than 25,000 gallons of  
24 wine; and (4) will not annually sell more than 5,000  
25 gallons of its wine to retail licensees.

26 (D) A self-distribution exemption holder shall

1           annually certify to the Commission its production of  
2           wine in the previous 12 months and its anticipated  
3           production and sales for the next 12 months. The  
4           Commission may fine, suspend, or revoke a  
5           self-distribution exemption after a hearing if it  
6           finds that the exemption holder has made a material  
7           misrepresentation in its application, violated a  
8           revenue or liquor law of Illinois, exceeded production  
9           of 25,000 gallons of wine in any calendar year, or  
10          become part of an affiliated group producing more than  
11          25,000 gallons of wine or any other alcoholic liquor.

12           (E) Except in hearings for violations of this Act  
13          or amendatory Act or a bona fide investigation by duly  
14          sworn law enforcement officials, the Commission, or  
15          its agents, the Commission shall maintain the  
16          production and sales information of a  
17          self-distribution exemption holder as confidential and  
18          shall not release such information to any person.

19           (F) The Commission shall issue regulations  
20          governing self-distribution exemptions consistent with  
21          this Section and this Act.

22           (G) Nothing in this subsection (17) shall prohibit  
23          a self-distribution exemption holder from entering  
24          into or simultaneously having a distribution agreement  
25          with a licensed Illinois distributor.

26           (H) It is the intent of this subsection (17) to

1 promote and continue orderly markets. The General  
2 Assembly finds that in order to preserve Illinois'  
3 regulatory distribution system it is necessary to  
4 create an exception for smaller makers of wine as their  
5 wines are frequently adjusted in varietals, mixes,  
6 vintages, and taste to find and create market niches  
7 sometimes too small for distributor or importing  
8 distributor business strategies. Limited  
9 self-distribution rights will afford and allow smaller  
10 makers of wine access to the marketplace in order to  
11 develop a customer base without impairing the  
12 integrity of the 3-tier system.

13 (18) (A) A craft brewer licensee, who must also be  
14 either a licensed brewer or licensed non-resident dealer  
15 and annually manufacture less than 930,000 gallons of beer,  
16 may make application to the Commission for a  
17 self-distribution exemption to allow the sale of not more  
18 than 232,500 gallons of the exemption holder's beer to  
19 retail licensees per year.

20 (B) In the application, which shall be sworn under  
21 penalty of perjury, the craft brewer licensee shall  
22 state (1) the date it was established; (2) its volume  
23 of beer manufactured and sold for each year since its  
24 establishment; (3) its efforts to establish  
25 distributor relationships; (4) that a  
26 self-distribution exemption is necessary to facilitate

1 the marketing of its beer; and (5) that it will comply  
2 with the alcoholic beverage and revenue laws of the  
3 United States, this State, and any other state where it  
4 is licensed.

5 (C) Any application submitted shall be posted on  
6 the Commission's website at least 45 days prior to  
7 action by the Commission. The Commission shall approve  
8 the application for a self-distribution exemption if  
9 the craft brewer licensee: (1) is in compliance with  
10 the State, revenue, and alcoholic beverage laws; (2) is  
11 not a member of any affiliated group that manufacturers  
12 more than 930,000 gallons of beer per annum or produces  
13 any other alcoholic beverages; (3) shall not annually  
14 manufacture for sale more than 930,000 gallons of beer;  
15 and (4) shall not annually sell more than 232,500  
16 gallons of its beer to retail licensees.

17 (D) A self-distribution exemption holder shall  
18 annually certify to the Commission its manufacture of  
19 beer during the previous 12 months and its anticipated  
20 manufacture and sales of beer for the next 12 months.  
21 The Commission may fine, suspend, or revoke a  
22 self-distribution exemption after a hearing if it  
23 finds that the exemption holder has made a material  
24 misrepresentation in its application, violated a  
25 revenue or alcoholic beverage law of Illinois,  
26 exceeded the manufacture of 930,000 gallons of beer in



1 any calendar year or became part of an affiliated group  
2 manufacturing more than 930,000 gallons of beer or any  
3 other alcoholic beverage.

4 (E) The Commission shall issue rules and  
5 regulations governing self-distribution exemptions  
6 consistent with this Act.

7 (F) Nothing in this paragraph (18) shall prohibit a  
8 self-distribution exemption holder from entering into  
9 or simultaneously having a distribution agreement with  
10 a licensed Illinois importing distributor or a  
11 distributor. If a self-distribution exemption holder  
12 enters into a distribution agreement and has assigned  
13 distribution rights to an importing distributor or  
14 distributor, then the self-distribution exemption  
15 holder's distribution rights in the assigned  
16 territories shall cease in a reasonable time not to  
17 exceed 60 days.

18 (G) It is the intent of this paragraph (18) to  
19 promote and continue orderly markets. The General  
20 Assembly finds that in order to preserve Illinois'  
21 regulatory distribution system, it is necessary to  
22 create an exception for smaller manufacturers in order  
23 to afford and allow such smaller manufacturers of beer  
24 access to the marketplace in order to develop a  
25 customer base without impairing the integrity of the  
26 3-tier system.

1 (b) On or before April 30, 1999, the Commission shall  
2 present a written report to the Governor and the General  
3 Assembly that shall be based on a study of the impact of this  
4 amendatory Act of 1998 on the business of soliciting, selling,  
5 and shipping alcoholic liquor from outside of this State  
6 directly to residents of this State.

7 As part of its report, the Commission shall provide the  
8 following information:

9 (i) the amount of State excise and sales tax revenues  
10 generated as a result of this amendatory Act of 1998;

11 (ii) the amount of licensing fees received as a result  
12 of this amendatory Act of 1998;

13 (iii) the number of reported violations, the number of  
14 cease and desist notices issued by the Commission, the  
15 number of notices of violations issued to the Department of  
16 Revenue, and the number of notices and complaints of  
17 violations to law enforcement officials.

18 (Source: P.A. 97-5, eff. 6-1-11; 98-401, eff. 8-16-13; 98-941,  
19 eff. 1-1-15.)

20 (Text of Section after amendment by P.A. 98-939)

21 Sec. 3-12. Powers and duties of State Commission.

22 (a) The State commission shall have the following powers,  
23 functions, and duties:

24 (1) To receive applications and to issue licenses to  
25 manufacturers, foreign importers, importing distributors,

1 distributors, non-resident dealers, on premise consumption  
2 retailers, off premise sale retailers, special event  
3 retailer licensees, special use permit licenses, auction  
4 liquor licenses, brew pubs, caterer retailers,  
5 non-beverage users, railroads, including owners and  
6 lessees of sleeping, dining and cafe cars, airplanes,  
7 boats, brokers, and wine maker's premises licensees in  
8 accordance with the provisions of this Act, and to suspend  
9 or revoke such licenses upon the State commission's  
10 determination, upon notice after hearing, that a licensee  
11 has violated any provision of this Act or any rule or  
12 regulation issued pursuant thereto and in effect for 30  
13 days prior to such violation. Except in the case of an  
14 action taken pursuant to a violation of Section 6-3, 6-5,  
15 or 6-9, any action by the State Commission to suspend or  
16 revoke a licensee's license may be limited to the license  
17 for the specific premises where the violation occurred.

18 In lieu of suspending or revoking a license, the  
19 commission may impose a fine, upon the State commission's  
20 determination and notice after hearing, that a licensee has  
21 violated any provision of this Act or any rule or  
22 regulation issued pursuant thereto and in effect for 30  
23 days prior to such violation.

24 For the purpose of this paragraph (1), when determining  
25 multiple violations for the sale of alcohol to a person  
26 under the age of 21, a second or subsequent violation for

1 the sale of alcohol to a person under the age of 21 shall  
2 only be considered if it was committed within 5 years after  
3 the date when a prior violation for the sale of alcohol to  
4 a person under the age of 21 was committed.

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

21 (2) To adopt such rules and regulations consistent with  
22 the provisions of this Act which shall be necessary to  
23 carry on its functions and duties to the end that the  
24 health, safety and welfare of the People of the State of  
25 Illinois shall be protected and temperance in the  
26 consumption of alcoholic liquors shall be fostered and

1 promoted and to distribute copies of such rules and  
2 regulations to all licensees affected thereby.

3 (3) To call upon other administrative departments of  
4 the State, county and municipal governments, county and  
5 city police departments and upon prosecuting officers for  
6 such information and assistance as it deems necessary in  
7 the performance of its duties.

8 (4) To recommend to local commissioners rules and  
9 regulations, not inconsistent with the law, for the  
10 distribution and sale of alcoholic liquors throughout the  
11 State.

12 (4.5) To, in its discretion, honor requests for  
13 interpretive opinions and issue reasonable directions and  
14 guidelines not inconsistent with the provisions of the Act.  
15 All interpretive opinions, directions, and guidelines of a  
16 general character shall be sent electronically to all  
17 licensees and shall be posted on the State Commission's  
18 website.

19 (5) To inspect, or cause to be inspected, any premises  
20 in this State where alcoholic liquors are manufactured,  
21 distributed, warehoused, or sold. Nothing in this Act  
22 authorizes an agent of the Commission to inspect private  
23 areas within the premises without reasonable suspicion or a  
24 warrant during an inspection. "Private areas" include, but  
25 are not limited to, safes, personal property, and closed  
26 desks.

1           (5.1) Upon receipt of a complaint or upon having  
2           knowledge that any person is engaged in business as a  
3           manufacturer, importing distributor, distributor, or  
4           retailer without a license or valid license, to notify the  
5           local liquor authority, file a complaint with the State's  
6           Attorney's Office of the county where the incident  
7           occurred, or initiate an investigation with the  
8           appropriate law enforcement officials.

9           (5.2) To issue a cease and desist notice to persons  
10          shipping alcoholic liquor into this State from a point  
11          outside of this State if the shipment is in violation of  
12          this Act.

13          (5.3) To receive complaints from licensees, local  
14          officials, law enforcement agencies, organizations, and  
15          persons stating that any licensee has been or is violating  
16          any provision of this Act or the rules and regulations  
17          issued pursuant to this Act. Such complaints shall be in  
18          writing, signed and sworn to by the person making the  
19          complaint, and shall state with specificity the facts in  
20          relation to the alleged violation. If the Commission has  
21          reasonable grounds to believe that the complaint  
22          substantially alleges a violation of this Act or rules and  
23          regulations adopted pursuant to this Act, it shall conduct  
24          an investigation. If, after conducting an investigation,  
25          the Commission is satisfied that the alleged violation did  
26          occur, it shall proceed with disciplinary action against

1 the licensee as provided in this Act.

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

8 (7) The commission shall establish uniform systems of  
9 accounts to be kept by all retail licensees having more  
10 than 4 employees, and for this purpose the commission may  
11 classify all retail licensees having more than 4 employees  
12 and establish a uniform system of accounts for each class  
13 and prescribe the manner in which such accounts shall be  
14 kept. The commission may also prescribe the forms of  
15 accounts to be kept by all retail licensees having more  
16 than 4 employees, including but not limited to accounts of  
17 earnings and expenses and any distribution, payment, or  
18 other distribution of earnings or assets, and any other  
19 forms, records and memoranda which in the judgment of the  
20 commission may be necessary or appropriate to carry out any  
21 of the provisions of this Act, including but not limited to  
22 such forms, records and memoranda as will readily and  
23 accurately disclose at all times the beneficial ownership  
24 of such retail licensed business. The accounts, forms,  
25 records and memoranda shall be available at all reasonable  
26 times for inspection by authorized representatives of the

1 State commission or by any local liquor control  
2 commissioner or his or her authorized representative. The  
3 commission, may, from time to time, alter, amend or repeal,  
4 in whole or in part, any uniform system of accounts, or the  
5 form and manner of keeping accounts.

6 (8) In the conduct of any hearing authorized to be held  
7 by the commission, to appoint, at the commission's  
8 discretion, hearing officers to conduct hearings involving  
9 complex issues or issues that will require a protracted  
10 period of time to resolve, to examine, or cause to be  
11 examined, under oath, any licensee, and to examine or cause  
12 to be examined the books and records of such licensee; to  
13 hear testimony and take proof material for its information  
14 in the discharge of its duties hereunder; to administer or  
15 cause to be administered oaths; for any such purpose to  
16 issue subpoena or subpoenas to require the attendance of  
17 witnesses and the production of books, which shall be  
18 effective in any part of this State, and to adopt rules to  
19 implement its powers under this paragraph (8).

20 Any Circuit Court may by order duly entered, require  
21 the attendance of witnesses and the production of relevant  
22 books subpoenaed by the State commission and the court may  
23 compel obedience to its order by proceedings for contempt.

24 (9) To investigate the administration of laws in  
25 relation to alcoholic liquors in this and other states and  
26 any foreign countries, and to recommend from time to time



1 to the Governor and through him or her to the legislature  
2 of this State, such amendments to this Act, if any, as it  
3 may think desirable and as will serve to further the  
4 general broad purposes contained in Section 1-2 hereof.

5 (10) To adopt such rules and regulations consistent  
6 with the provisions of this Act which shall be necessary  
7 for the control, sale or disposition of alcoholic liquor  
8 damaged as a result of an accident, wreck, flood, fire or  
9 other similar occurrence.

10 (11) To develop industry educational programs related  
11 to responsible serving and selling, particularly in the  
12 areas of overserving consumers and illegal underage  
13 purchasing and consumption of alcoholic beverages.

14 (11.1) To license persons providing education and  
15 training to alcohol beverage sellers and servers for  
16 mandatory and non-mandatory training under the Beverage  
17 Alcohol Sellers and Servers Education and Training  
18 (BASSET) programs and to develop and administer a public  
19 awareness program in Illinois to reduce or eliminate the  
20 illegal purchase and consumption of alcoholic beverage  
21 products by persons under the age of 21. Application for a  
22 license shall be made on forms provided by the State  
23 Commission.

24 (12) To develop and maintain a repository of license  
25 and regulatory information.

26 (13) On or before January 15, 1994, the Commission

1 shall issue a written report to the Governor and General  
2 Assembly that is to be based on a comprehensive study of  
3 the impact on and implications for the State of Illinois of  
4 Section 1926 of the Federal ADAMHA Reorganization Act of  
5 1992 (Public Law 102-321). This study shall address the  
6 extent to which Illinois currently complies with the  
7 provisions of P.L. 102-321 and the rules promulgated  
8 pursuant thereto.

9 As part of its report, the Commission shall provide the  
10 following essential information:

11 (i) the number of retail distributors of tobacco  
12 products, by type and geographic area, in the State;

13 (ii) the number of reported citations and  
14 successful convictions, categorized by type and  
15 location of retail distributor, for violation of the  
16 Prevention of Tobacco Use by Minors and Sale and  
17 Distribution of Tobacco Products Act and the Smokeless  
18 Tobacco Limitation Act;

19 (iii) the extent and nature of organized  
20 educational and governmental activities that are  
21 intended to promote, encourage or otherwise secure  
22 compliance with any Illinois laws that prohibit the  
23 sale or distribution of tobacco products to minors; and

24 (iv) the level of access and availability of  
25 tobacco products to individuals under the age of 18.

26 To obtain the data necessary to comply with the

1 provisions of P.L. 102-321 and the requirements of this  
2 report, the Commission shall conduct random, unannounced  
3 inspections of a geographically and scientifically  
4 representative sample of the State's retail tobacco  
5 distributors.

6 The Commission shall consult with the Department of  
7 Public Health, the Department of Human Services, the  
8 Illinois State Police and any other executive branch  
9 agency, and private organizations that may have  
10 information relevant to this report.

11 The Commission may contract with the Food and Drug  
12 Administration of the U.S. Department of Health and Human  
13 Services to conduct unannounced investigations of Illinois  
14 tobacco vendors to determine compliance with federal laws  
15 relating to the illegal sale of cigarettes and smokeless  
16 tobacco products to persons under the age of 18.

17 (14) On or before April 30, 2008 and every 2 years  
18 thereafter, the Commission shall present a written report  
19 to the Governor and the General Assembly that shall be  
20 based on a study of the impact of this amendatory Act of  
21 the 95th General Assembly on the business of soliciting,  
22 selling, and shipping wine from inside and outside of this  
23 State directly to residents of this State. As part of its  
24 report, the Commission shall provide all of the following  
25 information:

26 (A) The amount of State excise and sales tax

1 revenues generated.

2 (B) The amount of licensing fees received.

3 (C) The number of cases of wine shipped from inside  
4 and outside of this State directly to residents of this  
5 State.

6 (D) The number of alcohol compliance operations  
7 conducted.

8 (E) The number of winery shipper's licenses  
9 issued.

10 (F) The number of each of the following: reported  
11 violations; cease and desist notices issued by the  
12 Commission; notices of violations issued by the  
13 Commission and to the Department of Revenue; and  
14 notices and complaints of violations to law  
15 enforcement officials, including, without limitation,  
16 the Illinois Attorney General and the U.S. Department  
17 of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

18 (15) As a means to reduce the underage consumption of  
19 alcoholic liquors, the Commission shall conduct alcohol  
20 compliance operations to investigate whether businesses  
21 that are soliciting, selling, and shipping wine from inside  
22 or outside of this State directly to residents of this  
23 State are licensed by this State or are selling or  
24 attempting to sell wine to persons under 21 years of age in  
25 violation of this Act.

26 (16) The Commission shall, in addition to notifying any

1 appropriate law enforcement agency, submit notices of  
2 complaints or violations of Sections 6-29 and 6-29.1 by  
3 persons who do not hold a winery shipper's license under  
4 this amendatory Act to the Illinois Attorney General and to  
5 the U.S. Department of Treasury's Alcohol and Tobacco Tax  
6 and Trade Bureau.

7 (17) (A) A person licensed to make wine under the laws  
8 of another state who has a winery shipper's license under  
9 this amendatory Act and annually produces less than 25,000  
10 gallons of wine or a person who has a first-class or  
11 second-class wine manufacturer's license, a first-class or  
12 second-class wine-maker's license, or a limited wine  
13 manufacturer's license under this Act and annually  
14 produces less than 25,000 gallons of wine may make  
15 application to the Commission for a self-distribution  
16 exemption to allow the sale of not more than 5,000 gallons  
17 of the exemption holder's wine to retail licensees per  
18 year.

19 (B) In the application, which shall be sworn under  
20 penalty of perjury, such person shall state (1) the  
21 date it was established; (2) its volume of production  
22 and sales for each year since its establishment; (3)  
23 its efforts to establish distributor relationships;  
24 (4) that a self-distribution exemption is necessary to  
25 facilitate the marketing of its wine; and (5) that it  
26 will comply with the liquor and revenue laws of the

1 United States, this State, and any other state where it  
2 is licensed.

3 (C) The Commission shall approve the application  
4 for a self-distribution exemption if such person: (1)  
5 is in compliance with State revenue and liquor laws;  
6 (2) is not a member of any affiliated group that  
7 produces more than 25,000 gallons of wine per annum or  
8 produces any other alcoholic liquor; (3) will not  
9 annually produce for sale more than 25,000 gallons of  
10 wine; and (4) will not annually sell more than 5,000  
11 gallons of its wine to retail licensees.

12 (D) A self-distribution exemption holder shall  
13 annually certify to the Commission its production of  
14 wine in the previous 12 months and its anticipated  
15 production and sales for the next 12 months. The  
16 Commission may fine, suspend, or revoke a  
17 self-distribution exemption after a hearing if it  
18 finds that the exemption holder has made a material  
19 misrepresentation in its application, violated a  
20 revenue or liquor law of Illinois, exceeded production  
21 of 25,000 gallons of wine in any calendar year, or  
22 become part of an affiliated group producing more than  
23 25,000 gallons of wine or any other alcoholic liquor.

24 (E) Except in hearings for violations of this Act  
25 or amendatory Act or a bona fide investigation by duly  
26 sworn law enforcement officials, the Commission, or

1           its agents, the Commission shall maintain the  
2           production and sales information of a  
3           self-distribution exemption holder as confidential and  
4           shall not release such information to any person.

5           (F) The Commission shall issue regulations  
6           governing self-distribution exemptions consistent with  
7           this Section and this Act.

8           (G) Nothing in this subsection (17) shall prohibit  
9           a self-distribution exemption holder from entering  
10          into or simultaneously having a distribution agreement  
11          with a licensed Illinois distributor.

12          (H) It is the intent of this subsection (17) to  
13          promote and continue orderly markets. The General  
14          Assembly finds that in order to preserve Illinois'  
15          regulatory distribution system it is necessary to  
16          create an exception for smaller makers of wine as their  
17          wines are frequently adjusted in varietals, mixes,  
18          vintages, and taste to find and create market niches  
19          sometimes too small for distributor or importing  
20          distributor business strategies. Limited  
21          self-distribution rights will afford and allow smaller  
22          makers of wine access to the marketplace in order to  
23          develop a customer base without impairing the  
24          integrity of the 3-tier system.

25          (18) (A) A craft brewer licensee, who must also be  
26          either a licensed brewer or licensed non-resident dealer

1 and annually manufacture less than 930,000 gallons of beer,  
2 may make application to the Commission for a  
3 self-distribution exemption to allow the sale of not more  
4 than 232,500 gallons of the exemption holder's beer to  
5 retail licensees per year.

6 (B) In the application, which shall be sworn under  
7 penalty of perjury, the craft brewer licensee shall  
8 state (1) the date it was established; (2) its volume  
9 of beer manufactured and sold for each year since its  
10 establishment; (3) its efforts to establish  
11 distributor relationships; (4) that a  
12 self-distribution exemption is necessary to facilitate  
13 the marketing of its beer; and (5) that it will comply  
14 with the alcoholic beverage and revenue laws of the  
15 United States, this State, and any other state where it  
16 is licensed.

17 (C) Any application submitted shall be posted on  
18 the Commission's website at least 45 days prior to  
19 action by the Commission. The Commission shall approve  
20 the application for a self-distribution exemption if  
21 the craft brewer licensee: (1) is in compliance with  
22 the State, revenue, and alcoholic beverage laws; (2) is  
23 not a member of any affiliated group that manufacturers  
24 more than 930,000 gallons of beer per annum or produces  
25 any other alcoholic beverages; (3) shall not annually  
26 manufacture for sale more than 930,000 gallons of beer;



1 and (4) shall not annually sell more than 232,500  
2 gallons of its beer to retail licensees.

3 (D) A self-distribution exemption holder shall  
4 annually certify to the Commission its manufacture of  
5 beer during the previous 12 months and its anticipated  
6 manufacture and sales of beer for the next 12 months.  
7 The Commission may fine, suspend, or revoke a  
8 self-distribution exemption after a hearing if it  
9 finds that the exemption holder has made a material  
10 misrepresentation in its application, violated a  
11 revenue or alcoholic beverage law of Illinois,  
12 exceeded the manufacture of 930,000 gallons of beer in  
13 any calendar year or became part of an affiliated group  
14 manufacturing more than 930,000 gallons of beer or any  
15 other alcoholic beverage.

16 (E) The Commission shall issue rules and  
17 regulations governing self-distribution exemptions  
18 consistent with this Act.

19 (F) Nothing in this paragraph (18) shall prohibit a  
20 self-distribution exemption holder from entering into  
21 or simultaneously having a distribution agreement with  
22 a licensed Illinois importing distributor or a  
23 distributor. If a self-distribution exemption holder  
24 enters into a distribution agreement and has assigned  
25 distribution rights to an importing distributor or  
26 distributor, then the self-distribution exemption

1 holder's distribution rights in the assigned  
2 territories shall cease in a reasonable time not to  
3 exceed 60 days.

4 (G) It is the intent of this paragraph (18) to  
5 promote and continue orderly markets. The General  
6 Assembly finds that in order to preserve Illinois'  
7 regulatory distribution system, it is necessary to  
8 create an exception for smaller manufacturers in order  
9 to afford and allow such smaller manufacturers of beer  
10 access to the marketplace in order to develop a  
11 customer base without impairing the integrity of the  
12 3-tier system.

13 (b) On or before April 30, 1999, the Commission shall  
14 present a written report to the Governor and the General  
15 Assembly that shall be based on a study of the impact of this  
16 amendatory Act of 1998 on the business of soliciting, selling,  
17 and shipping alcoholic liquor from outside of this State  
18 directly to residents of this State.

19 As part of its report, the Commission shall provide the  
20 following information:

21 (i) the amount of State excise and sales tax revenues  
22 generated as a result of this amendatory Act of 1998;

23 (ii) the amount of licensing fees received as a result  
24 of this amendatory Act of 1998;

25 (iii) the number of reported violations, the number of  
26 cease and desist notices issued by the Commission, the

1           number of notices of violations issued to the Department of  
2           Revenue, and the number of notices and complaints of  
3           violations to law enforcement officials.

4           (Source: P.A. 97-5, eff. 6-1-11; 98-401, eff. 8-16-13; 98-939,  
5           eff. 7-1-15; 98-941, eff. 1-1-15; revised 10-6-14.)

6           Section 95. No acceleration or delay. Where this Act makes  
7           changes in a statute that is represented in this Act by text  
8           that is not yet or no longer in effect (for example, a Section  
9           represented by multiple versions), the use of that text does  
10          not accelerate or delay the taking effect of (i) the changes  
11          made by this Act or (ii) provisions derived from any other  
12          Public Act.

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