

1                                    AMENDMENT TO HOUSE BILL 5000

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5000 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 Sections 3-12 and 6-11 as follows:

6            (235 ILCS 5/3-12) (from Ch. 43, par. 108)

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

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

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

1 this Act or any rule or regulation issued pursuant  
2 thereto and in effect for 30 days prior to such  
3 violation.

4 In lieu of suspending or revoking a license, the  
5 commission may impose a fine, upon the State commission's  
6 determination and notice after hearing, that a licensee  
7 has violated any provision of this Act or any rule or  
8 regulation issued pursuant thereto and in effect for 30  
9 days prior to such violation. The fine imposed under  
10 this paragraph may not exceed \$500 for each violation.  
11 Each day that the activity, which gave rise to the  
12 original fine, continues is a separate violation. The  
13 maximum fine that may be levied against any licensee, for  
14 the period of the license, shall not exceed \$20,000. The  
15 maximum penalty that may be imposed on a licensee for  
16 selling a bottle of alcoholic liquor with a foreign  
17 object in it or serving from a bottle of alcoholic liquor  
18 with a foreign object in it shall be the destruction of  
19 that bottle of alcoholic liquor for the first 10 bottles  
20 so sold or served from by the licensee. For the eleventh  
21 bottle of alcoholic liquor and for each third bottle  
22 thereafter sold or served from by the licensee with a  
23 foreign object in it, the maximum penalty that may be  
24 imposed on the licensee is the destruction of the bottle  
25 of alcoholic liquor and a fine of up to \$50.

26 (2) To adopt such rules and regulations consistent  
27 with the provisions of this Act which shall be necessary  
28 to carry on its functions and duties to the end that the  
29 health, safety and welfare of the People of the State of  
30 Illinois shall be protected and temperance in the  
31 consumption of alcoholic liquors shall be fostered and  
32 promoted and to distribute copies of such rules and  
33 regulations to all licensees affected thereby.

34 (3) To call upon other administrative departments

1 of the State, county and municipal governments, county  
2 and city police departments and upon prosecuting officers  
3 for such information and assistance as it deems necessary  
4 in the performance of its duties.

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

9 (5) To inspect, or cause to be inspected, any  
10 premises in this State where alcoholic liquors are  
11 manufactured, distributed, warehoused, or sold.

12 (5.1) Upon receipt of a complaint or upon having  
13 knowledge that any person is engaged in business as a  
14 manufacturer, importing distributor, distributor, or  
15 retailer without a license or valid license, to notify  
16 the local liquor authority, file a complaint with the  
17 State's Attorney's Office of the county where the  
18 incident occurred, or initiate an investigation with the  
19 appropriate law enforcement officials.

20 (5.2) To issue a cease and desist notice to persons  
21 shipping alcoholic liquor into this State from a point  
22 outside of this State if the shipment is in violation of  
23 this Act.

24 (5.3) To receive complaints from licensees, local  
25 officials, law enforcement agencies, organizations, and  
26 persons stating that any licensee has been or is  
27 violating any provision of this Act or the rules and  
28 regulations issued pursuant to this Act. Such complaints  
29 shall be in writing, signed and sworn to by the person  
30 making the complaint, and shall state with specificity  
31 the facts in relation to the alleged violation. If the  
32 Commission has reasonable grounds to believe that the  
33 complaint substantially alleges a violation of this Act  
34 or rules and regulations adopted pursuant to this Act, it

1 shall conduct an investigation. If, after conducting an  
2 investigation, the Commission is satisfied that the  
3 alleged violation did occur, it shall proceed with  
4 disciplinary action against the licensee as provided in  
5 this Act.

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

12 (7) The commission shall establish uniform systems  
13 of accounts to be kept by all retail licensees having  
14 more than 4 employees, and for this purpose the  
15 commission may classify all retail licensees having more  
16 than 4 employees and establish a uniform system of  
17 accounts for each class and prescribe the manner in which  
18 such accounts shall be kept. The commission may also  
19 prescribe the forms of accounts to be kept by all retail  
20 licensees having more than 4 employees, including but not  
21 limited to accounts of earnings and expenses and any  
22 distribution, payment, or other distribution of earnings  
23 or assets, and any other forms, records and memoranda  
24 which in the judgment of the commission may be necessary  
25 or appropriate to carry out any of the provisions of this  
26 Act, including but not limited to such forms, records and  
27 memoranda as will readily and accurately disclose at all  
28 times the beneficial ownership of such retail licensed  
29 business. The accounts, forms, records and memoranda  
30 shall be available at all reasonable times for inspection  
31 by authorized representatives of the State commission or  
32 by any local liquor control commissioner or his or her  
33 authorized representative. The commission, may, from time  
34 to time, alter, amend or repeal, in whole or in part, any

1 uniform system of accounts, or the form and manner of  
2 keeping accounts.

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

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

23 (9) To investigate the administration of laws in  
24 relation to alcoholic liquors in this and other states  
25 and any foreign countries, and to recommend from time to  
26 time to the Governor and through him or her to the  
27 legislature of this State, such amendments to this Act,  
28 if any, as it may think desirable and as will serve to  
29 further the general broad purposes contained in Section  
30 1-2 hereof.

31 (10) To adopt such rules and regulations consistent  
32 with the provisions of this Act which shall be necessary  
33 for the control, sale or disposition of alcoholic liquor  
34 damaged as a result of an accident, wreck, flood, fire or

1 other similar occurrence.

2 (11) To develop industry educational programs  
3 related to responsible serving and selling, particularly  
4 in the areas of overserving consumers and illegal  
5 underage purchasing and consumption of alcoholic  
6 beverages.

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

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

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

27 As part of its report, the Commission shall provide  
28 the following essential information:

29 (i) the number of retail distributors of  
30 tobacco products, by type and geographic area, in  
31 the State;

32 (ii) the number of reported citations and  
33 successful convictions, categorized by type and  
34 location of retail distributor, for violation of the

1 Sale of Tobacco to Minors Act and the Smokeless  
2 Tobacco Limitation Act;

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

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

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

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

22 The Commission may contract with the Food and Drug  
23 Administration of the U.S. Department of Health and Human  
24 Services to conduct unannounced investigations of Illinois  
25 tobacco vendors to determine compliance with federal laws  
26 relating to the illegal sale of cigarettes and smokeless  
27 tobacco products to persons under the age of 18.

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

34 As part of its report, the Commission shall provide the

1 following information:

2 (i) the amount of State excise and sales tax  
3 revenues generated as a result of this amendatory Act of  
4 1998;

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

7 (iii) the number of reported violations, the number  
8 of cease and desist notices issued by the Commission, the  
9 number of notices of violations issued to the Department  
10 of Revenue, and the number of notices and complaints of  
11 violations to law enforcement officials.

12 (Source: P.A. 91-553, eff. 8-14-99; 91-922, eff. 7-7-00;  
13 92-378, eff. 8-16-01.)

14 (235 ILCS 5/6-11) (from Ch. 43, par. 127)

15 Sec. 6-11. No license shall be issued for the sale at  
16 retail of any alcoholic liquor within 100 feet of any church,  
17 school other than an institution of higher learning,  
18 hospital, home for aged or indigent persons or for veterans,  
19 their spouses or children or any military or naval station,  
20 provided, that this prohibition shall not apply to hotels  
21 offering restaurant service, regularly organized clubs, or to  
22 restaurants, food shops or other places where sale of  
23 alcoholic liquors is not the principal business carried on if  
24 the place of business so exempted is not located in a  
25 municipality of more than 500,000 persons, unless required by  
26 local ordinance; nor to the renewal of a license for the sale  
27 at retail of alcoholic liquor on premises within 100 feet of  
28 any church or school where the church or school has been  
29 established within such 100 feet since the issuance of the  
30 original license. In the case of a church, the distance of  
31 100 feet shall be measured to the nearest part of any  
32 building used for worship services or educational programs  
33 and not to property boundaries.

1           Nothing in this Section shall prohibit the issuance of a  
2 retail license authorizing the sale of alcoholic liquor to a  
3 restaurant, the primary business of which is the sale of  
4 goods baked on the premises if (i) the restaurant is newly  
5 constructed and located on a lot of not less than 10,000  
6 square feet, (ii) the restaurant costs at least \$1,000,000 to  
7 construct, (iii) the licensee is the titleholder to the  
8 premises and resides on the premises, and (iv) the  
9 construction of the restaurant is completed within 18 months  
10 of the effective date of this amendatory Act of 1998.

11           Nothing in this Section shall prohibit the issuance of a  
12 retail license authorizing the sale of alcoholic liquor  
13 incidental to a restaurant if (1) the primary business of the  
14 restaurant consists of the sale of food where the sale of  
15 liquor is incidental to the sale of food and the applicant is  
16 a completely new owner of the restaurant, (2) the immediately  
17 prior owner or operator of the premises where the restaurant  
18 is located operated the premises as a restaurant and held a  
19 valid retail license authorizing the sale of alcoholic liquor  
20 at the restaurant for at least part of the 24 months before  
21 the change of ownership, and (3) the restaurant is located 75  
22 or more feet from a school.

23           In the interest of further developing Illinois' economy  
24 in the area of commerce, tourism, convention, and banquet  
25 business, nothing in this Section shall prohibit issuance of  
26 a retail license authorizing the sale of alcoholic beverages  
27 to a restaurant, banquet facility, grocery store, or hotel  
28 having not fewer than 150 guest room accommodations located  
29 in a municipality of more than 500,000 persons,  
30 notwithstanding the proximity of such hotel, restaurant,  
31 banquet facility, or grocery store to any church or school,  
32 if the licensed premises described on the license are located  
33 within an enclosed mall or building of a height of at least 6  
34 stories, or 60 feet in the case of a building that has been

1 registered as a national landmark, or in a grocery store  
2 having a minimum of 56,010 square feet of floor space in a  
3 single story building in an open mall of at least 3.96 acres  
4 that is adjacent to a public school that opened as a boys  
5 technical high school in 1934, and in each of these cases if  
6 the sale of alcoholic liquors is not the principal business  
7 carried on by the licensee.

8 For purposes of this Section, a "banquet facility" is any  
9 part of a building that caters to private parties and where  
10 the sale of alcoholic liquors is not the principal business.

11 Nothing in this Section shall prohibit the issuance of a  
12 license to a church or private school to sell at retail  
13 alcoholic liquor if any such sales are limited to periods  
14 when groups are assembled on the premises solely for the  
15 promotion of some common object other than the sale or  
16 consumption of alcoholic liquors.

17 Nothing in this Section shall prohibit a church or church  
18 affiliated school located in a home rule municipality or in a  
19 municipality with 75,000 or more inhabitants from locating  
20 within 100 feet of a property for which there is a  
21 preexisting license to sell alcoholic liquor at retail. In  
22 these instances, the local zoning authority may, by ordinance  
23 adopted simultaneously with the granting of an initial  
24 special use zoning permit for the church or church affiliated  
25 school, provide that the 100-foot restriction in this Section  
26 shall not apply to that church or church affiliated school  
27 and future retail liquor licenses.

28 (Source: P.A. 90-617, eff. 7-10-98; 90-655, eff. 7-30-98;  
29 91-357, eff. 7-29-99; 91-623, eff. 1-1-00.)

30 Section 99. Effective date. This Act takes effect upon  
31 becoming law."