

AN ACT concerning liquor.

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

Section 5. The Liquor Control Act of 1934 is amended by changing Sections 3-12, 5-1, 5-3, 6-4, 6-29, and 6-29.1 as follows:

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

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

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

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

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

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

destruction of the bottle of alcoholic liquor and a fine of up to \$50.

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

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

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

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

(5.1) Upon receipt of a complaint or upon having knowledge that any person is engaged in business as a manufacturer, importing distributor, distributor, or retailer without a license or valid license, to notify the

local liquor authority, file a complaint with the State's Attorney's Office of the county where the incident occurred, or initiate an investigation with the appropriate law enforcement officials.

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

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

(6) To hear and determine appeals from orders of a local commission in accordance with the provisions of this Act, as hereinafter set forth. Hearings under this

subsection shall be held in Springfield or Chicago, at whichever location is the more convenient for the majority of persons who are parties to the hearing.

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

form and manner of keeping accounts.

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

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

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

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

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

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

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

(13) On or before January 15, 1994, the Commission shall issue a written report to the Governor and General Assembly that is to be based on a comprehensive study of the impact on and implications for the State of Illinois of Section 1926 of the Federal ADAMHA Reorganization Act of 1992 (Public Law 102-321). This study shall address the

extent to which Illinois currently complies with the provisions of P.L. 102-321 and the rules promulgated pursuant thereto.

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

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

(ii) the number of reported citations and successful convictions, categorized by type and location of retail distributor, for violation of the Sale of Tobacco to Minors Act and the Smokeless Tobacco Limitation Act;

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

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

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

The Commission shall consult with the Department of

Public Health, the Department of Human Services, the Illinois State Police and any other executive branch agency, and private organizations that may have information relevant to this report.

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

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

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

(B) The amount of licensing fees received.

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

(D) The number of alcohol compliance operations

conducted.

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

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

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

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

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

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

(C) The Commission shall approve the application for a self-distribution exemption if such person: (1) is in compliance with State revenue and liquor laws; (2) is not a member of any affiliated group that

produces more than 25,000 gallons of wine per annum or produces any other alcoholic liquor; (3) will not annually produce for sale more than 25,000 gallons of wine; and (4) will not annually sell more than 5,000 gallons of its wine to retail licensees.

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

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

(F) The Commission shall issue regulations governing self-distribution exemptions consistent with

this Section and this Act.

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

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

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

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

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

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

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

(Source: P.A. 92-378, eff. 8-16-01; 92-813, eff. 8-21-02; 93-1057, eff. 12-2-04.)

(235 ILCS 5/5-1) (from Ch. 43, par. 115)

Sec. 5-1. Licenses issued by the Illinois Liquor Control Commission shall be of the following classes:

(a) Manufacturer's license - Class 1. Distiller, Class 2. Rectifier, Class 3. Brewer, Class 4. First Class Wine Manufacturer, Class 5. Second Class Wine Manufacturer, Class 6. First Class Winemaker, Class 7. Second Class Winemaker, Class 8. Limited Wine Manufacturer,

(b) Distributor's license,

(c) Importing Distributor's license,

(d) Retailer's license,

(e) Special Event Retailer's license (not-for-profit),

(f) Railroad license,

(g) Boat license,

- (h) Non-Beverage User's license,
- (i) Wine-maker's premises license,
- (j) Airplane license,
- (k) Foreign importer's license,
- (l) Broker's license,
- (m) Non-resident dealer's license,
- (n) Brew Pub license,
- (o) Auction liquor license,
- (p) Caterer retailer license,
- (q) Special use permit license, ~~and~~
- (r) Winery shipper's license.

No person, firm, partnership, corporation, or other legal business entity that is engaged in the manufacturing of wine may concurrently obtain and hold a wine-maker's license and a wine manufacturer's license.

(a) A manufacturer's license shall allow the manufacture, importation in bulk, storage, distribution and sale of alcoholic liquor to persons without the State, as may be permitted by law and to licensees in this State as follows:

Class 1. A Distiller may make sales and deliveries of alcoholic liquor to distillers, rectifiers, importing distributors, distributors and non-beverage users and to no other licensees.

Class 2. A Rectifier, who is not a distiller, as defined herein, may make sales and deliveries of alcoholic liquor to rectifiers, importing distributors, distributors, retailers

and non-beverage users and to no other licensees.

Class 3. A Brewer may make sales and deliveries of beer to importing distributors, distributors, and to non-licensees, and to retailers provided the brewer obtains an importing distributor's license or distributor's license in accordance with the provisions of this Act.

Class 4. A first class wine-manufacturer may make sales and deliveries of up to 50,000 gallons of wine to manufacturers, importing distributors and distributors, and to no other licensees.

Class 5. A second class Wine manufacturer may make sales and deliveries of more than 50,000 gallons of wine to manufacturers, importing distributors and distributors and to no other licensees.

Class 6. A first-class wine-maker's license shall allow the manufacture of up to 50,000 gallons of wine per year, and the storage and sale of such wine to distributors in the State and to persons without the State, as may be permitted by law. A person who, prior to the effective date of this amendatory Act of the 95th General Assembly, is a holder of a first-class wine-maker's license and annually produces more than 25,000 gallons of its own wine and who distributes its wine to licensed retailers shall cease this practice on or before July 1, 2008 in compliance with this amendatory Act of the 95th General Assembly. ~~A first class wine maker's license shall allow the sale of no more than 5,000 gallons of the licensee's~~

~~wine to retailers. The State Commission shall issue only one first class wine maker's license to any person, firm, partnership, corporation, or other legal business entity that is engaged in the making of less than 50,000 gallons of wine annually that applies for a first class wine maker's license. No subsidiary or affiliate thereof, nor any officer, associate, member, partner, representative, employee, agent, or shareholder may be issued an additional wine maker's license by the State Commission.~~

Class 7. A second-class wine-maker's license shall allow the manufacture of between 50,000 and 150,000 ~~100,000~~ gallons of wine per year, and the storage and sale of such wine to distributors in this State and to persons without the State, as may be permitted by law. A person who, prior to the effective date of this amendatory Act of the 95th General Assembly, is a holder of a second-class wine-maker's license and annually produces more than 25,000 gallons of its own wine and who distributes its wine to licensed retailers shall cease this practice on or before July 1, 2008 in compliance with this amendatory Act of the 95th General Assembly. ~~A second class wine maker's license shall allow the sale of no more than 10,000 gallons of the licensee's wine directly to retailers. The State Commission shall issue only one second class wine maker's license to any person, firm, partnership, corporation, or other legal business entity that is engaged in the making of less than 100,000 gallons of wine annually that~~

~~applies for a second class wine maker's license. No subsidiary or affiliate thereof, or any officer, associate, member, partner, representative, employee, agent, or shareholder may be issued an additional wine maker's license by the State Commission.~~

Class 8. A limited wine-manufacturer may make sales and deliveries not to exceed 40,000 gallons of wine per year to distributors, and to non-licensees in accordance with the provisions of this Act.

(a-1) A manufacturer which is licensed in this State to make sales or deliveries of alcoholic liquor and which enlists agents, representatives, or individuals acting on its behalf who contact licensed retailers on a regular and continual basis in this State must register those agents, representatives, or persons acting on its behalf with the State Commission.

Registration of agents, representatives, or persons acting on behalf of a manufacturer is fulfilled by submitting a form to the Commission. The form shall be developed by the Commission and shall include the name and address of the applicant, the name and address of the manufacturer he or she represents, the territory or areas assigned to sell to or discuss pricing terms of alcoholic liquor, and any other questions deemed appropriate and necessary. All statements in the forms required to be made by law or by rule shall be deemed material, and any person who knowingly misstates any material fact under oath in an application is guilty of a Class B

misdemeanor. Fraud, misrepresentation, false statements, misleading statements, evasions, or suppression of material facts in the securing of a registration are grounds for suspension or revocation of the registration.

(b) A distributor's license shall allow the wholesale purchase and storage of alcoholic liquors and sale of alcoholic liquors to licensees in this State and to persons without the State, as may be permitted by law.

(c) An importing distributor's license may be issued to and held by those only who are duly licensed distributors, upon the filing of an application by a duly licensed distributor, with the Commission and the Commission shall, without the payment of any fee, immediately issue such importing distributor's license to the applicant, which shall allow the importation of alcoholic liquor by the licensee into this State from any point in the United States outside this State, and the purchase of alcoholic liquor in barrels, casks or other bulk containers and the bottling of such alcoholic liquors before resale thereof, but all bottles or containers so filled shall be sealed, labeled, stamped and otherwise made to comply with all provisions, rules and regulations governing manufacturers in the preparation and bottling of alcoholic liquors. The importing distributor's license shall permit such licensee to purchase alcoholic liquor from Illinois licensed non-resident dealers and foreign importers only.

(d) A retailer's license shall allow the licensee to sell

and offer for sale at retail, only in the premises specified in the license, alcoholic liquor for use or consumption, but not for resale in any form. Nothing in this amendatory Act of the 95th General Assembly shall deny, limit, remove, or restrict the ability of a holder of a retailer's license to transfer, deliver, or ship alcoholic liquor to the purchaser for use or consumption subject to any applicable local law or ordinance.

~~Any: Provided that any~~ retail license issued to a manufacturer shall only permit the manufacturer to sell beer at retail on the premises actually occupied by the manufacturer. For the purpose of further describing the type of business conducted at a retail licensed premises, a retailer's licensee may be designated by the State Commission as (i) an on premise consumption retailer, (ii) an off premise sale retailer, or (iii) a combined on premise consumption and off premise sale retailer.

Notwithstanding any other provision of this subsection (d), a retail licensee may sell alcoholic liquors to a special event retailer licensee for resale to the extent permitted under subsection (e).

(e) A special event retailer's license (not-for-profit) shall permit the licensee to purchase alcoholic liquors from an Illinois licensed distributor (unless the licensee purchases less than \$500 of alcoholic liquors for the special event, in which case the licensee may purchase the alcoholic liquors from a licensed retailer) and shall allow the licensee to sell and

offer for sale, at retail, alcoholic liquors for use or consumption, but not for resale in any form and only at the location and on the specific dates designated for the special event in the license. An applicant for a special event retailer license must (i) furnish with the application: (A) a resale number issued under Section 2c of the Retailers' Occupation Tax Act or evidence that the applicant is registered under Section 2a of the Retailers' Occupation Tax Act, (B) a current, valid exemption identification number issued under Section 1g of the Retailers' Occupation Tax Act, and a certification to the Commission that the purchase of alcoholic liquors will be a tax-exempt purchase, or (C) a statement that the applicant is not registered under Section 2a of the Retailers' Occupation Tax Act, does not hold a resale number under Section 2c of the Retailers' Occupation Tax Act, and does not hold an exemption number under Section 1g of the Retailers' Occupation Tax Act, in which event the Commission shall set forth on the special event retailer's license a statement to that effect; (ii) submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance in the maximum limits; and (iii) show proof satisfactory to the State Commission that the applicant has obtained local authority approval.

(f) A railroad license shall permit the licensee to import alcoholic liquors into this State from any point in the United States outside this State and to store such alcoholic liquors

in this State; to make wholesale purchases of alcoholic liquors directly from manufacturers, foreign importers, distributors and importing distributors from within or outside this State; and to store such alcoholic liquors in this State; provided that the above powers may be exercised only in connection with the importation, purchase or storage of alcoholic liquors to be sold or dispensed on a club, buffet, lounge or dining car operated on an electric, gas or steam railway in this State; and provided further, that railroad licensees exercising the above powers shall be subject to all provisions of Article VIII of this Act as applied to importing distributors. A railroad license shall also permit the licensee to sell or dispense alcoholic liquors on any club, buffet, lounge or dining car operated on an electric, gas or steam railway regularly operated by a common carrier in this State, but shall not permit the sale for resale of any alcoholic liquors to any licensee within this State. A license shall be obtained for each car in which such sales are made.

(g) A boat license shall allow the sale of alcoholic liquor in individual drinks, on any passenger boat regularly operated as a common carrier on navigable waters in this State or on any riverboat operated under the Riverboat Gambling Act, which boat or riverboat maintains a public dining room or restaurant thereon.

(h) A non-beverage user's license shall allow the licensee to purchase alcoholic liquor from a licensed manufacturer or

importing distributor, without the imposition of any tax upon the business of such licensed manufacturer or importing distributor as to such alcoholic liquor to be used by such licensee solely for the non-beverage purposes set forth in subsection (a) of Section 8-1 of this Act, and such licenses shall be divided and classified and shall permit the purchase, possession and use of limited and stated quantities of alcoholic liquor as follows:

- Class 1, not to exceed 500 gallons
- Class 2, not to exceed 1,000 gallons
- Class 3, not to exceed 5,000 gallons
- Class 4, not to exceed 10,000 gallons
- Class 5, not to exceed 50,000 gallons

(i) A wine-maker's premises license shall allow a licensee that concurrently holds a first-class wine-maker's license to sell and offer for sale at retail in the premises specified in such license not more than 50,000 gallons of the first-class wine-maker's wine that is made at the first-class wine-maker's licensed premises per year for use or consumption, but not for resale in any form. A wine-maker's premises license shall allow a licensee who concurrently holds a second-class wine-maker's license to sell and offer for sale at retail in the premises specified in such license up to 100,000 gallons of the second-class wine-maker's wine that is made at the second-class wine-maker's licensed premises per year for use or consumption but not for resale in any form. A wine-maker's premises license

shall allow a licensee that concurrently holds a first-class wine-maker's license or a second-class wine-maker's license to sell and offer for sale at retail at the premises specified in the wine-maker's premises license, for use or consumption but not for resale in any form, any beer, wine, and spirits purchased from a licensed distributor. Upon approval from the State Commission, a wine-maker's premises license shall allow the licensee to sell and offer for sale at (i) the wine-maker's licensed premises and (ii) at up to 2 additional locations for use and consumption and not for resale. Each location shall require additional licensing per location as specified in Section 5-3 of this Act. A wine-maker's premises licensee shall secure liquor liability insurance coverage in an amount at least equal to the maximum liability amounts set forth in subsection (a) of Section 6-21 of this Act.

(j) An airplane license shall permit the licensee to import alcoholic liquors into this State from any point in the United States outside this State and to store such alcoholic liquors in this State; to make wholesale purchases of alcoholic liquors directly from manufacturers, foreign importers, distributors and importing distributors from within or outside this State; and to store such alcoholic liquors in this State; provided that the above powers may be exercised only in connection with the importation, purchase or storage of alcoholic liquors to be sold or dispensed on an airplane; and provided further, that airplane licensees exercising the above powers shall be subject

to all provisions of Article VIII of this Act as applied to importing distributors. An airplane licensee shall also permit the sale or dispensing of alcoholic liquors on any passenger airplane regularly operated by a common carrier in this State, but shall not permit the sale for resale of any alcoholic liquors to any licensee within this State. A single airplane license shall be required of an airline company if liquor service is provided on board aircraft in this State. The annual fee for such license shall be as determined in Section 5-3.

(k) A foreign importer's license shall permit such licensee to purchase alcoholic liquor from Illinois licensed non-resident dealers only, and to import alcoholic liquor other than in bulk from any point outside the United States and to sell such alcoholic liquor to Illinois licensed importing distributors and to no one else in Illinois; provided that the foreign importer registers with the State Commission every brand of alcoholic liquor that it proposes to sell to Illinois licensees during the license period and provided further that the foreign importer complies with all of the provisions of Section 6-9 of this Act with respect to registration of such Illinois licensees as may be granted the right to sell such brands at wholesale.

(l) (i) A broker's license shall be required of all persons who solicit orders for, offer to sell or offer to supply alcoholic liquor to retailers in the State of Illinois, or who offer to retailers to ship or cause to be shipped or to make

contact with distillers, rectifiers, brewers or manufacturers or any other party within or without the State of Illinois in order that alcoholic liquors be shipped to a distributor, importing distributor or foreign importer, whether such solicitation or offer is consummated within or without the State of Illinois.

No holder of a retailer's license issued by the Illinois Liquor Control Commission shall purchase or receive any alcoholic liquor, the order for which was solicited or offered for sale to such retailer by a broker unless the broker is the holder of a valid broker's license.

The broker shall, upon the acceptance by a retailer of the broker's solicitation of an order or offer to sell or supply or deliver or have delivered alcoholic liquors, promptly forward to the Illinois Liquor Control Commission a notification of said transaction in such form as the Commission may by regulations prescribe.

(ii) A broker's license shall be required of a person within this State, other than a retail licensee, who, for a fee or commission, promotes, solicits, or accepts orders for alcoholic liquor, for use or consumption and not for resale, to be shipped from this State and delivered to residents outside of this State by an express company, common carrier, or contract carrier. This Section does not apply to any person who promotes, solicits, or accepts orders for wine as specifically authorized in Section 6-29 of this Act.

A broker's license under this subsection (1) ~~(1)~~ shall not entitle the holder to buy or sell any alcoholic liquors for his own account or to take or deliver title to such alcoholic liquors.

This subsection (1) ~~(1)~~ shall not apply to distributors, employees of distributors, or employees of a manufacturer who has registered the trademark, brand or name of the alcoholic liquor pursuant to Section 6-9 of this Act, and who regularly sells such alcoholic liquor in the State of Illinois only to its registrants thereunder.

Any agent, representative, or person subject to registration pursuant to subsection (a-1) of this Section shall not be eligible to receive a broker's license.

(m) A non-resident dealer's license shall permit such licensee to ship into and warehouse alcoholic liquor into this State from any point outside of this State, and to sell such alcoholic liquor to Illinois licensed foreign importers and importing distributors and to no one else in this State; provided that said non-resident dealer shall register with the Illinois Liquor Control Commission each and every brand of alcoholic liquor which it proposes to sell to Illinois licensees during the license period; and further provided that it shall comply with all of the provisions of Section 6-9 hereof with respect to registration of such Illinois licensees as may be granted the right to sell such brands at wholesale.

(n) A brew pub license shall allow the licensee to

manufacture beer only on the premises specified in the license, to make sales of the beer manufactured on the premises to importing distributors, distributors, and to non-licensees for use and consumption, to store the beer upon the premises, and to sell and offer for sale at retail from the licensed premises, provided that a brew pub licensee shall not sell for off-premises consumption more than 50,000 gallons per year.

(o) A caterer retailer license shall allow the holder to serve alcoholic liquors as an incidental part of a food service that serves prepared meals which excludes the serving of snacks as the primary meal, either on or off-site whether licensed or unlicensed.

(p) An auction liquor license shall allow the licensee to sell and offer for sale at auction wine and spirits for use or consumption, or for resale by an Illinois liquor licensee in accordance with provisions of this Act. An auction liquor license will be issued to a person and it will permit the auction liquor licensee to hold the auction anywhere in the State. An auction liquor license must be obtained for each auction at least 14 days in advance of the auction date.

(q) A special use permit license shall allow an Illinois licensed retailer to transfer a portion of its alcoholic liquor inventory from its retail licensed premises to the premises specified in the license hereby created, and to sell or offer for sale at retail, only in the premises specified in the license hereby created, the transferred alcoholic liquor for

use or consumption, but not for resale in any form. A special use permit license may be granted for the following time periods: one day or less; 2 or more days to a maximum of 15 days per location in any 12 month period. An applicant for the special use permit license must also submit with the application proof satisfactory to the State Commission that the applicant will provide dram shop liability insurance to the maximum limits and have local authority approval.

(r) A winery shipper's license shall allow a person with a first-class or second-class wine manufacturer's license, a first-class or second-class wine-maker's license, or a limited wine manufacturer's license or who is licensed to make wine under the laws of another state to ship wine made by that licensee directly to a resident of this State who is 21 years of age or older for that resident's personal use and not for resale. Prior to receiving a winery shipper's license, an applicant for the license must provide the Commission with a true copy of its current license in any state in which it is licensed as a manufacturer of wine. An applicant for a winery shipper's license must also complete an application form that provides any other information the Commission deems necessary. The application form shall include an acknowledgement consenting to the jurisdiction of the Commission, the Illinois Department of Revenue, and the courts of this State concerning the enforcement of this Act and any related laws, rules, and regulations, including authorizing the Department of Revenue

and the Commission to conduct audits for the purpose of ensuring compliance with this amendatory Act.

A winery shipper licensee must pay to the Department of Revenue the State liquor gallonage tax under Section 8-1 for all wine that is sold by the licensee and shipped to a person in this State. For the purposes of Section 8-1, a winery shipper licensee shall be taxed in the same manner as a manufacturer of wine. A licensee who is not otherwise required to register under the Retailers' Occupation Tax Act must register under the Use Tax Act to collect and remit use tax to the Department of Revenue for all gallons of wine that are sold by the licensee and shipped to persons in this State. If a licensee fails to remit the tax imposed under this Act in accordance with the provisions of Article VIII of this Act, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of this Act. If a licensee fails to properly register and remit tax under the Use Tax Act or the Retailers' Occupation Tax Act for all wine that is sold by the winery shipper and shipped to persons in this State, the winery shipper's license shall be revoked in accordance with the provisions of Article VII of this Act.

A winery shipper licensee must collect, maintain, and submit to the Commission on a semi-annual basis the total number of cases per resident of wine shipped to residents of this State. A winery shipper licensed under this subsection (r) must comply with the requirements of Section 6-29 of this

amendatory Act.

(Source: P.A. 92-105, eff. 1-1-02; 92-378, eff. 8-16-01; 92-651, eff. 7-11-02; 92-672, eff. 7-16-02; 93-923, eff. 8-12-04; 93-1057, eff. 12-2-04; revised 12-6-04.)

(235 ILCS 5/5-3) (from Ch. 43, par. 118)

Sec. 5-3. License fees. Except as otherwise provided herein, at the time application is made to the State Commission for a license of any class, the applicant shall pay to the State Commission the fee hereinafter provided for the kind of license applied for.

The fee for licenses issued by the State Commission shall be as follows:

For a manufacturer's license:

Class 1. Distiller	\$3,600
Class 2. Rectifier	3,600
Class 3. Brewer	900
Class 4. First-class Wine Manufacturer	600
Class 5. Second-class Wine Manufacturer	1,200
Class 6. First-class wine-maker	600
Class 7. Second-class wine-maker	1200
Class 8. Limited Wine Manufacturer	120
For a Brew Pub License	1,050
For a caterer retailer's license	200
For a foreign importer's license	25

For an importing distributor's license	25
For a distributor's license	270
For a non-resident dealer's license (500,000 gallons or over)	270
For a non-resident dealer's license (under 500,000 gallons)	90
For a wine-maker's premises license	100
<u>For a winery shipper's license</u> <u>(under 250,000 gallons)</u>	<u>150</u>
<u>For a winery shipper's license</u> <u>(250,000 or over, but under 500,000 gallons)</u>	<u>500</u>
<u>For a winery shipper's license</u> <u>(500,000 gallons or over)</u>	<u>1,000</u>
For a wine-maker's premises license, second location	350
For a wine-maker's premises license, third location	350
For a retailer's license	500
For a special event retailer's license, (not-for-profit)	25
For a special use permit license, one day only	50
2 days or more	100
For a railroad license	60
For a boat license	180
For an airplane license, times the	

licensee's maximum number of aircraft
in flight, serving liquor over the
State at any given time, which either
originate, terminate, or make
an intermediate stop in the State 60

For a non-beverage user's license:

Class 1 24

Class 2 60

Class 3 120

Class 4 240

Class 5 600

For a broker's license 600

For an auction liquor license 50

Fees collected under this Section shall be paid into the Dram Shop Fund. On and after July 1, 2003, of the funds received for a retailer's license, in addition to the first \$175, an additional \$75 shall be paid into the Dram Shop Fund, and \$250 shall be paid into the General Revenue Fund. Beginning June 30, 1990 and on June 30 of each subsequent year through June 29, 2003, any balance over \$5,000,000 remaining in the Dram Shop Fund shall be credited to State liquor licensees and applied against their fees for State liquor licenses for the following year. The amount credited to each licensee shall be a proportion of the balance in the Dram Fund that is the same as the proportion of the license fee paid by the licensee under this Section for the period in which the balance was

accumulated to the aggregate fees paid by all licensees during that period.

No fee shall be paid for licenses issued by the State Commission to the following non-beverage users:

(a) Hospitals, sanitariums, or clinics when their use of alcoholic liquor is exclusively medicinal, mechanical or scientific.

(b) Universities, colleges of learning or schools when their use of alcoholic liquor is exclusively medicinal, mechanical or scientific.

(c) Laboratories when their use is exclusively for the purpose of scientific research.

(Source: P.A. 92-378, eff. 8-16-01; 93-22, eff. 6-20-03.)

(235 ILCS 5/6-4) (from Ch. 43, par. 121)

Sec. 6-4. (a) No person licensed by any licensing authority as a distiller, or a wine manufacturer, or any subsidiary or affiliate thereof, or any officer, associate, member, partner, representative, employee, agent or shareholder owning more than 5% of the outstanding shares of such person shall be issued an importing distributor's or distributor's license, nor shall any person licensed by any licensing authority as an importing distributor, distributor or retailer, or any subsidiary or affiliate thereof, or any officer or associate, member, partner, representative, employee, agent or shareholder owning more than 5% of the outstanding shares of

such person be issued a distiller's license or a wine manufacturer's license; and no person or persons licensed as a distiller by any licensing authority shall have any interest, directly or indirectly, with such distributor or importing distributor.

However, an importing distributor or distributor, which on January 1, 1985 is owned by a brewer, or any subsidiary or affiliate thereof or any officer, associate, member, partner, representative, employee, agent or shareholder owning more than 5% of the outstanding shares of the importing distributor or distributor referred to in this paragraph, may own or acquire an ownership interest of more than 5% of the outstanding shares of a wine manufacturer and be issued a wine manufacturer's license by any licensing authority.

(b) The foregoing provisions shall not apply to any person licensed by any licensing authority as a distiller or wine manufacturer, or to any subsidiary or affiliate of any distiller or wine manufacturer who shall have been heretofore licensed by the State Commission as either an importing distributor or distributor during the annual licensing period expiring June 30, 1947, and shall actually have made sales regularly to retailers.

(c) Provided, however, that in such instances where a distributor's or importing distributor's license has been issued to any distiller or wine manufacturer or to any subsidiary or affiliate of any distiller or wine manufacturer

who has, during the licensing period ending June 30, 1947, sold or distributed as such licensed distributor or importing distributor alcoholic liquors and wines to retailers, such distiller or wine manufacturer or any subsidiary or affiliate of any distiller or wine manufacturer holding such distributor's or importing distributor's license may continue to sell or distribute to retailers such alcoholic liquors and wines which are manufactured, distilled, processed or marketed by distillers and wine manufacturers whose products it sold or distributed to retailers during the whole or any part of its licensing periods; and such additional brands and additional products may be added to the line of such distributor or importing distributor, provided, that such brands and such products were not sold or distributed by any distributor or importing distributor licensed by the State Commission during the licensing period ending June 30, 1947, but can not sell or distribute to retailers any other alcoholic liquors or wines.

(d) It shall be unlawful for any distiller licensed anywhere to have any stock ownership or interest in any distributor's or importing distributor's license wherein any other person has an interest therein who is not a distiller and does not own more than 5% of any stock in any distillery. Nothing herein contained shall apply to such distillers or their subsidiaries or affiliates, who had a distributor's or importing distributor's license during the licensing period ending June 30, 1947, which license was owned in whole by such

distiller, or subsidiaries or affiliates of such distiller.

(e) Any person having been licensed as a manufacturer shall be permitted to receive one retailer's license for the premises in which he actually conducts such business, permitting the sale of beer only on such premises, but no such person shall be entitled to more than one retailer's license in any event, and, other than a manufacturer of beer as stated above, no manufacturer or distributor or importing distributor, excluding airplane licensees exercising powers provided in paragraph (i) of Section 5-1 of this Act, or any subsidiary or affiliate thereof, or any officer, associate, member, partner, representative, employee or agent, or shareholder shall be issued a retailer's license, nor shall any person having a retailer's license, excluding airplane licensees exercising powers provided in paragraph (i) of Section 5-1 of this Act, or any subsidiary or affiliate thereof, or any officer, associate, member, partner, representative or agent, or shareholder be issued a manufacturer's license, importing distributor's license.

(f) However, the foregoing prohibitions against any person licensed as a distiller or wine manufacturer being issued a retailer's license shall not apply:

(i) to any hotel, motel or restaurant whose principal business is not the sale of alcoholic liquors if said retailer's sales of any alcoholic liquors manufactured, sold, distributed or controlled, directly or indirectly, by any

affiliate, subsidiary, officer, associate, member, partner, representative, employee, agent or shareholder owning more than 5% of the outstanding shares of such person does not exceed 10% of the total alcoholic liquor sales of said retail licensee; and

(ii) where the Commission determines, having considered the public welfare, the economic impact upon the State and the entirety of the facts and circumstances involved, that the purpose and intent of this Section would not be violated by granting an exemption.

(g) Notwithstanding any of the foregoing prohibitions, a limited wine manufacturer may sell at retail at its manufacturing site for on or off premises consumption and may sell to distributors. A limited wine manufacturer licensee shall secure liquor liability insurance coverage in an amount at least equal to the maximum liability amounts set forth in subsection (a) of Section 6-21 of this Act.

(Source: P.A. 86-858.)

(235 ILCS 5/6-29) (from Ch. 43, par. 144e)

Sec. 6-29. Winery shipper's license. ~~Interstate reciprocal wine shipments.~~

(a) The General Assembly declares that the following is the intent of this Section:

(1) To authorize direct shipment of wine by an out-of-state maker of wine on the same basis permitted an

in-state maker of wine pursuant to the authority of the State under the provisions of Section 2 of the Twenty-First Amendment to the United States Constitution and in conformance with the United States Supreme Court decision decided on May 16, 2005 in Granholm v. Heald.

(2) To reaffirm that the General Assembly's findings and declarations that selling alcoholic liquor through various direct marketing means such as catalogs, newspapers, mailings, and the Internet directly to consumers of this State poses a serious threat to the State's efforts to further temperance and prevent youth from accessing alcoholic liquor and the expansion of youth access to additional types of alcoholic liquors.

(3) To maintain the State's broad powers granted by Section 2 of the Twenty-First Amendment to the United States Constitution to control the importation or sale of alcoholic liquor and its right to structure its alcoholic liquor distribution system.

(4) To ensure that the General Assembly, by authorizing limited direct shipment of wine to meet the directives of the United States Supreme Court, does not intend to impair or modify the State's distribution of wine through distributors or importing distributors, but only to permit limited shipment of wine for personal use.

(5) To provide that, in the event that a court of competent jurisdiction declares or finds that this

Section, which is enacted to conform Illinois law to the United States Supreme Court decision, is invalid or unconstitutional, the Illinois General Assembly at its earliest general session shall conduct hearings and study methods to conform to any directive or order of the court consistent with the temperance and revenue collection purposes of this Act.

(b) Notwithstanding any other provision of law, a wine shipper licensee may ship, for personal use and not for resale, not more than 12 cases of wine per year to any resident of this State who is 21 years of age or older.

(b-3) Notwithstanding any other provision of law, sale and shipment by a winery shipper licensee pursuant to this Section shall be deemed to constitute a sale in this State.

(b-5) The shipping container of any wine shipped under this Section shall be clearly labeled with the following words: "CONTAINS ALCOHOL. SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY. PROOF OF AGE AND IDENTITY MUST BE SHOWN BEFORE DELIVERY." This warning must be prominently displayed on the packaging. A licensee shall require the transporter or common carrier that delivers the wine to obtain the signature of a person 21 years of age or older at the delivery address at the time of delivery. At the expense of the licensee, the licensee shall receive a delivery confirmation from the express company, common carrier, or contract carrier indicating the location of the delivery, time of delivery, and

the name and signature of the individual 21 years of age or older who accepts delivery. The Commission shall design and create a label or approve a label that must be affixed to the shipping container by the licensee.

~~(a) Notwithstanding any other provision of law, an adult resident or holder of an alcoholic beverage license in a state which affords Illinois licensees or adult residents an equal reciprocal shipping privilege may ship, for personal use and not for resale, not more than 2 cases of wine (each case containing not more than 9 liters) per year to any adult resident of this State. Delivery of a shipment pursuant to this Section shall not be deemed to constitute a sale in this State.~~

~~(b) The shipping container of any wine sent into or out of this State under this Section shall be clearly labeled to indicate that the package cannot be delivered to a person under the age of 21 years.~~

(c) No broker within this State shall solicit consumers to engage in direct interstate reciprocal wine shipments under this Section. ~~No shipper located outside this State may advertise such interstate reciprocal wine shipments in this State.~~

(d) It is not the intent of this Section to impair the distribution of wine through distributors or importing distributors, but only to permit shipments of wine for personal use.

(Source: P.A. 86-1483.)

(235 ILCS 5/6-29.1)

Sec. 6-29.1. Direct shipments of alcoholic liquor.

(a) The General Assembly makes the following findings:

(1) The General Assembly of Illinois, having reviewed this Act in light of the United States Supreme Court's 2005 decision in Granholm v. Heald, has determined to conform that law to the constitutional principles enunciated by the Court in a manner that best preserves the temperance, revenue, and orderly distribution values of this Act.

(2) Minimizing automobile accidents and fatalities, domestic violence, health problems, loss of productivity, unemployment, and other social problems associated with dependency and improvident use of alcoholic beverages remains the policy of Illinois.

(3) To the maximum extent constitutionally feasible, Illinois desires to collect sufficient revenue from excise and use taxes on alcoholic beverages for the purpose of responding to such social problems.

(4) Combined with family education and individual discipline, retail validation of age, and assessment of the capacity of the consumer remains the best pre-sale social protection against the problems associated with the abuse of alcoholic liquor.

(5) Therefore, the paramount purpose of this amendatory Act is to continue to carefully limit direct

shipment sales of wine produced by makers of wine and to continue to prohibit such direct shipment sales for spirits and beer.

For these reasons, the Commission shall establish a system to notify the out-of-state trade of this prohibition and to detect violations. The Commission shall request the Attorney General to extradite any offender.

(b) Pursuant to the Twenty-First Amendment of the United States Constitution allowing states to regulate the distribution and sale of alcoholic liquor and pursuant to the federal Webb-Kenyon Act declaring that alcoholic liquor shipped in interstate commerce must comply with state laws, the General Assembly hereby finds and declares that selling alcoholic liquor from a point outside this State through various direct marketing means, such as catalogs, newspapers, mailers, and the Internet, directly to residents of this State poses a serious threat to the State's efforts to prevent youths from accessing alcoholic liquor; to State revenue collections; and to the economy of this State.

Any person manufacturing, distributing, or selling alcoholic liquor who knowingly ships or transports or causes the shipping or transportation of any alcoholic liquor from a point outside this State to a person in this State who does not hold a manufacturer's, distributor's, importing distributor's, or non-resident dealer's license issued by the Liquor Control Commission, other than a shipment of sacramental wine to a bona

fide religious organization, a shipment authorized by Section 6-29, subparagraph (17) of Section 3-12, or any other shipment authorized by this Act, is in violation of this Act.

The Commission, upon determining, after investigation, that a person has violated this Section, shall give notice to the person by certified mail to cease and desist all shipments of alcoholic liquor into this State and to withdraw from this State within 5 working days after receipt of the notice all shipments of alcoholic liquor then in transit.

Whenever the Commission has reason to believe that a person has failed to comply with the Commission notice under this Section, it shall notify the Department of Revenue and file a complaint with the State's Attorney of the county where the alcoholic liquor was delivered or with appropriate law enforcement officials.

Failure to comply with the notice issued by the Commission under this Section constitutes a business offense for which the person shall be fined not more than \$1,000 for a first offense, not more than \$5,000 for a second offense, and not more than \$10,000 for a third or subsequent offense. Each shipment of alcoholic liquor delivered in violation of the cease and desist notice shall constitute a separate offense.

(Source: P.A. 90-739, eff. 8-13-98.)

Section 90. Severability. The General Assembly recognizes that courts established pursuant to the Constitution of the

United States and the Constitution of the State of Illinois construe statutory provisions dealing with judicial interpretation, severability, and partial invalidity by determining whether the legislative intent was to enforce the remainder of the law enacted in the event of a judicial determination of partial invalidity. For the purpose of explaining such intent, if any provision, application, exemption, exception, or authorization of this amendatory Act, the Retailer's Occupation Tax Act, Section 3-7 of the Uniform Penalty and Interest Act, or the Liquor Control Act of 1934 is held invalid, then all other constitutional provisions, exemptions, exceptions, and authorizations of this amendatory Act are severable and shall be given effect.