



Sen. Pamela J. Althoff

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1 AMENDMENT TO SENATE BILL 2765

2 AMENDMENT NO. _____. Amend Senate Bill 2765 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Alcoholism and Other Drug Abuse and
5 Dependency Act is amended by adding Section 55-35 as follows:

6 (20 ILCS 301/55-35 new)

7 Sec. 55-35. Tobacco enforcement.

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

14 (b) Grant funds received from the Food and Drug
15 Administration of the U.S. Department of Health and Human
16 Services for conducting unannounced investigations of Illinois

1 tobacco vendors shall be deposited into the Tobacco Settlement
2 Recovery Fund starting July 1, 2018.

3 Section 10. The Liquor Control Act of 1934 is amended by
4 changing Sections 3-12 and 5-6 as follows:

5 (235 ILCS 5/3-12)

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

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

9 (1) To receive applications and to issue licenses to
10 manufacturers, foreign importers, importing distributors,
11 distributors, non-resident dealers, on premise consumption
12 retailers, off premise sale retailers, special event
13 retailer licensees, special use permit licenses, auction
14 liquor licenses, brew pubs, caterer retailers,
15 non-beverage users, railroads, including owners and
16 lessees of sleeping, dining and cafe cars, airplanes,
17 boats, brokers, and wine maker's premises licensees in
18 accordance with the provisions of this Act, and to suspend
19 or revoke such licenses upon the State commission's
20 determination, upon notice after hearing, that a licensee
21 has 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. Except in the case of an
24 action taken pursuant to a violation of Section 6-3, 6-5,

1 or 6-9, any action by the State Commission to suspend or
2 revoke a licensee's license may be limited to the license
3 for the specific premises where the violation occurred. An
4 action for a violation of this Act shall be commenced by
5 the State Commission within 2 years after the date the
6 State Commission becomes aware of the violation.

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 Any notice issued by the State Commission to a licensee
11 for a violation of this Act or any notice with respect to
12 settlement or offer in compromise shall include the field
13 report, photographs, and any other supporting
14 documentation necessary to reasonably inform the licensee
15 of the nature and extent of the violation or the conduct
16 alleged to have occurred.

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

25 (3) To call upon other administrative departments of
26 the State, county and municipal governments, county and

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

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

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

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

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

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

26 ~~(i) the number of retail distributors of tobacco~~

1 ~~products, by type and geographic area, in the State;~~

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

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

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

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

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

26 ~~The Commission may contract with the Food and Drug~~

1 ~~Administration of the U.S. Department of Health and Human~~
2 ~~Services to conduct unannounced investigations of Illinois~~
3 ~~tobacco vendors to determine compliance with federal laws~~
4 ~~relating to the illegal sale of cigarettes and smokeless~~
5 ~~tobacco products to persons under the age of 18.~~

6 (14) On or before April 30, 2008 and every 2 years
7 thereafter, the Commission shall present a written report
8 to the Governor and the General Assembly that shall be
9 based on a study of the impact of Public Act 95-634 on the
10 business of soliciting, selling, and shipping wine from
11 inside and outside of this State directly to residents of
12 this State. As part of its report, the Commission shall
13 provide all of the following 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 Act to the Illinois Attorney General and to the U.S.
19 Department of Treasury's Alcohol and Tobacco Tax and Trade
20 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 Act and annually produces less than 25,000 gallons of
24 wine or a person who has a first-class or second-class wine
25 manufacturer's license, a first-class or second-class
26 wine-maker's license, or a limited wine manufacturer's

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

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

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

24 (D) A self-distribution exemption holder shall
25 annually certify to the Commission its production of wine
26 in the previous 12 months and its anticipated production

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

9 (E) Except in hearings for violations of this Act or
10 Public Act 95-634 or a bona fide investigation by duly
11 sworn law enforcement officials, the Commission, or its
12 agents, the Commission shall maintain the production and
13 sales information of a self-distribution exemption holder
14 as confidential and shall not release such information to
15 any person.

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

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

23 (H) It is the intent of this subsection (17) to promote
24 and continue orderly markets. The General Assembly finds
25 that in order to preserve Illinois' regulatory
26 distribution system it is necessary to create an exception

1 for smaller makers of wine as their wines are frequently
2 adjusted in varietals, mixes, vintages, and taste to find
3 and create market niches sometimes too small for
4 distributor or importing distributor business strategies.
5 Limited self-distribution rights will afford and allow
6 smaller makers of wine access to the marketplace in order
7 to develop a customer base without impairing the integrity
8 of the 3-tier system.

9 (18) (A) A class 1 brewer licensee, who must also be
10 either a licensed brewer or licensed non-resident dealer
11 and annually manufacture less than 930,000 gallons of beer,
12 may make application to the State Commission for a
13 self-distribution exemption to allow the sale of not more
14 than 232,500 gallons of the exemption holder's beer to
15 retail licensees per year.

16 (B) In the application, which shall be sworn under
17 penalty of perjury, the class 1 brewer licensee shall state
18 (1) the date it was established; (2) its volume of beer
19 manufactured and sold for each year since its
20 establishment; (3) its efforts to establish distributor
21 relationships; (4) that a self-distribution exemption is
22 necessary to facilitate the marketing of its beer; and (5)
23 that it will comply with the alcoholic beverage and revenue
24 laws of the United States, this State, and any other state
25 where it is licensed.

26 (C) Any application submitted shall be posted on the

1 State Commission's website at least 45 days prior to action
2 by the State Commission. The State Commission shall approve
3 the application for a self-distribution exemption if the
4 class 1 brewer licensee: (1) is in compliance with the
5 State, revenue, and alcoholic beverage laws; (2) is not a
6 member of any affiliated group that manufactures more than
7 930,000 gallons of beer per annum or produces any other
8 alcoholic beverages; (3) shall not annually manufacture
9 for sale more than 930,000 gallons of beer; (4) shall not
10 annually sell more than 232,500 gallons of its beer to
11 retail licensees; and (5) has relinquished any brew pub
12 license held by the licensee, including any ownership
13 interest it held in the licensed brew pub.

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

1 (E) The State Commission shall issue rules and
2 regulations governing self-distribution exemptions
3 consistent with this Act.

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

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

22 (b) On or before April 30, 1999, the Commission shall
23 present a written report to the Governor and the General
24 Assembly that shall be based on a study of the impact of Public
25 Act 90-739 on the business of soliciting, selling, and shipping
26 alcoholic liquor from outside of this State directly to

1 residents of this State.

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

4 (i) the amount of State excise and sales tax revenues
5 generated as a result of Public Act 90-739;

6 (ii) the amount of licensing fees received as a result
7 of Public Act 90-739;

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

13 (Source: P.A. 99-78, eff. 7-20-15; 99-448, eff. 8-24-15;
14 100-134, eff. 8-18-17; 100-201, eff. 8-18-17.)

15 (235 ILCS 5/5-6)

16 Sec. 5-6. FDA grant funds. Grant funds received from the
17 Food and Drug Administration of the U.S. Department of Health
18 and Human Services for conducting unannounced investigations
19 of Illinois tobacco vendors shall be deposited into the Dram
20 Shop Fund until June 30, 2018.

21 (Source: P.A. 90-9, eff. 7-1-97.)

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