

1                   AMENDMENT TO SENATE BILL 410

2           AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 410 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 Section 3-12 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. Any action by the State Commission to suspend  
4 or revoke a licensee's license shall be limited to the  
5 license for the specific premises where the violation  
6 occurred.

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

29 (2) To adopt such rules and regulations consistent  
30 with the provisions of this Act which shall be necessary  
31 to carry on its functions and duties to the end that the  
32 health, safety and welfare of the People of the State of  
33 Illinois shall be protected and temperance in the  
34 consumption of alcoholic liquors shall be fostered and

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

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

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

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

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

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

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

1 Commission has reasonable grounds to believe that the  
2 complaint substantially alleges a violation of this Act  
3 or rules and regulations adopted pursuant to this Act, it  
4 shall conduct an investigation. If, after conducting an  
5 investigation, the Commission is satisfied that the  
6 alleged violation did occur, it shall proceed with  
7 disciplinary action against the licensee as provided in  
8 this Act.

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

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

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

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

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

26 (9) To investigate the administration of laws in  
27 relation to alcoholic liquors in this and other states  
28 and any foreign countries, and to recommend from time to  
29 time to the Governor and through him or her to the  
30 legislature of this State, such amendments to this Act,  
31 if any, as it may think desirable and as will serve to  
32 further the general broad purposes contained in Section  
33 1-2 hereof.

34 (10) To adopt such rules and regulations consistent

1 with the provisions of this Act which shall be necessary  
2 for the control, sale or disposition of alcoholic liquor  
3 damaged as a result of an accident, wreck, flood, fire or  
4 other similar occurrence.

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

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

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

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

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

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

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

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

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

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

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

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

31          (b) On or before April 30, 1999, the Commission shall  
32          present a written report to the Governor and the General  
33          Assembly that shall be based on a study of the impact of this  
34          amendatory Act of 1998 on the business of soliciting,

1 selling, and shipping alcoholic liquor from outside of this  
2 State directly to residents of this State.

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

5 (i) the amount of State excise and sales tax  
6 revenues generated as a result of this amendatory Act of  
7 1998;

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

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

15 (Source: P.A. 91-553, eff. 8-14-99; 91-922, eff. 7-7-00;  
16 92-378, eff. 8-16-01; 92-813, eff. 8-21-02.)".