

# SB3136



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3136

Introduced 2/9/2010, by Sen. Michael W. Frerichs

#### SYNOPSIS AS INTRODUCED:

235 ILCS 5/3-12

235 ILCS 5/5-3

from Ch. 43, par. 118

Amends the Liquor Control Act of 1934. Beginning on July 1, 2010, provides that of the funds received for a retailer's license, \$270 shall be paid into the Dram Shop Fund and \$230 shall be paid into the General Revenue Fund. Provides that the increase in amount of funds that is deposited into the Dram Shop Fund as a result of the amendatory Act shall only be used for the continuing education and professional training of examination employees of the State Commission and shall be in addition to the regular expenditures being made from the Dram Shop Fund for such purposes. Also makes technical changes. Effective July 1, 2010.

LRB096 20239 ASK 35815 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning liquor.

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

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

6 (235 ILCS 5/3-12)

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

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

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

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

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

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

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

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

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

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

23 (5.1) Upon receipt of a complaint or upon having  
24 knowledge that any person is engaged in business as a  
25 manufacturer, importing distributor, distributor, or  
26 retailer without a license or valid license, to notify the

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

5 (5.2) To issue a cease and desist notice to persons  
6 shipping alcoholic liquor into this State from a point  
7 outside of this State if the shipment is in violation of  
8 this Act.

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

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

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

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

1 ~~commission~~, may, from time to time, alter, amend or repeal,  
2 in whole or in part, any uniform system of accounts, or the  
3 form and manner of keeping accounts.

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

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

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

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

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

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

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

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

25 (13) On or before January 15, 1994, the State  
26 Commission shall issue a written report to the Governor and



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

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

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

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

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

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

25 To obtain the data necessary to comply with the  
26 provisions of P.L. 102-321 and the requirements of this

1 report, the State Commission shall conduct random,  
2 unannounced inspections of a geographically and  
3 scientifically representative sample of the State's retail  
4 tobacco distributors.

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

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

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

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

1 (B) The amount of licensing fees received.

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

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

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

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

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

25 (16) The State Commission shall, in addition to  
26 notifying any appropriate law enforcement agency, submit

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

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

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

1 is licensed.

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

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

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

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

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

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

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

25 (18) The State Commission shall train and educate its  
26 examination employees on an annual basis. The increase in the

1 amount of funds deposited into the Dram Shop Fund as a result  
2 of this amendatory Act of the 96th General Assembly shall only  
3 be used for this purpose and shall be in addition to the  
4 regular expenditures being made from the Dram Shop Fund for  
5 this purpose.

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

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

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

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

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

23 (Source: P.A. 95-634, eff. 6-1-08; 96-179, eff. 8-10-09;  
24 96-446, eff. 1-1-10; revised 10-19-09.)

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

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

8           For a manufacturer's license:

9	Class 1. Distiller .....	\$3,600
10	Class 2. Rectifier .....	3,600
11	Class 3. Brewer .....	900
12	Class 4. First-class Wine Manufacturer .....	600
13	Class 5. Second-class	
14	Wine Manufacturer .....	1,200
15	Class 6. First-class wine-maker .....	600
16	Class 7. Second-class wine-maker .....	1200
17	Class 8. Limited Wine Manufacturer .....	120
18	For a Brew Pub License .....	1,050
19	For a caterer retailer's license .....	200
20	For a foreign importer's license .....	25
21	For an importing distributor's license .....	25
22	For a distributor's license .....	270
23	For a non-resident dealer's license	
24	(500,000 gallons or over) .....	270
25	For a non-resident dealer's license	
26	(under 500,000 gallons) .....	90



1	For a wine-maker's premises license .....	100
2	For a winery shipper's license	
3	(under 250,000 gallons) .....	150
4	For a winery shipper's license	
5	(250,000 or over, but under 500,000 gallons)	500
6	For a winery shipper's license	
7	(500,000 gallons or over) .....	1,000
8	For a wine-maker's premises license,	
9	second location .....	350
10	For a wine-maker's premises license,	
11	third location .....	350
12	For a retailer's license .....	500
13	For a special event retailer's license,	
14	(not-for-profit) .....	25
15	For a special use permit license,	
16	one day only .....	50
17	2 days or more .....	100
18	For a railroad license .....	60
19	For a boat license .....	180
20	For an airplane license, times the	
21	licensee's maximum number of aircraft	
22	in flight, serving liquor over the	
23	State at any given time, which either	
24	originate, terminate, or make	
25	an intermediate stop in the State .....	60
26	For a non-beverage user's license:	

1	Class 1 .....	24
2	Class 2 .....	60
3	Class 3 .....	120
4	Class 4 .....	240
5	Class 5 .....	600
6	For a broker's license .....	600
7	For an auction liquor license .....	50

8 Fees collected under this Section shall be paid into the  
9 Dram Shop Fund. On and after July 1, 2010 ~~2003~~, of the funds  
10 received for a retailer's license, \$270 ~~in addition to the~~  
11 ~~first \$175, an additional \$75~~ shall be paid into the Dram Shop  
12 Fund, ~~and~~ \$230 ~~\$250~~ shall be paid into the General Revenue  
13 Fund. ~~Beginning June 30, 1990 and on June 30 of each subsequent~~  
14 ~~year through June 29, 2003, any balance over \$5,000,000~~  
15 ~~remaining in the Dram Shop Fund shall be credited to State~~  
16 ~~liquor licensees and applied against their fees for State~~  
17 ~~liquor licenses for the following year. The amount credited to~~  
18 ~~each licensee shall be a proportion of the balance in the Dram~~  
19 ~~Fund that is the same as the proportion of the license fee paid~~  
20 ~~by the licensee under this Section for the period in which the~~  
21 ~~balance was accumulated to the aggregate fees paid by all~~  
22 ~~licensees during that period.~~

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

- 25 (a) Hospitals, sanitariums, or clinics when their use
- 26 of alcoholic liquor is exclusively medicinal, mechanical

1 or scientific.

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

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

7 (Source: P.A. 95-634, eff. 6-1-08.)

8 Section 99. Effective date. This Act takes effect July 1,  
9 2010.