



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3730

Introduced 2/9/2024, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

235 ILCS 5/6-9.10
235 ILCS 5/6-9.15

Amends the Liquor Control Act of 1934. Provides that a licensee with a combined on-premises and off-premises license may make purchases for on-premises use only through an on-premises cooperative purchase group and may make purchases for off-premises use only through an off-premises cooperative purchase group. Provides that neither a cooperative agent nor a cooperative purchase group may receive cash or anything of value from a retail licensee or an importing distributor or distributor, non-resident dealer, or manufacturer as part of a cooperative purchasing agreement. Removes language providing that a cooperative agent that is compliant with certain provisions may receive cash or anything of value from both the retail licensee and an importing distributor or distributor, non-resident dealer or manufacturers as part of a cooperative purchase group agreement. Provides that cooperative agents and cooperative purchase groups may not have an ownership interest, direct or indirect, in any business or enterprise that provides marketing services or activities on behalf of manufacturers, non-resident dealers, foreign importers, importing distributors, and distributors. Provides that it is the duty of every cooperative agent and cooperative purchase group to make books and records available upon reasonable notice for the purpose of investigation and control by the Illinois Liquor Control Commission or any local liquor commission having jurisdiction over a licensee member of a cooperative purchase group. Makes changes concerning the surety bond a cooperative purchase group is required to retain. Changes references from "cooperative purchasing group" to "cooperative purchase group" to conform to the defined term.

LRB103 38678 RPS 68815 b

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 5. The Liquor Control Act of 1934 is amended by
5 changing Section 6-9.10 as follows:

6 (235 ILCS 5/6-9.10)

7 Sec. 6-9.10. Cooperative purchasing agreements.

8 (a) A cooperative purchasing agreement shall only be valid
9 if the following conditions are met:

10 (1) the agreement is in writing and signed by all
11 parties to the agreement;

12 (2) the agreement contains the complete license
13 information for all parties to the agreement, including
14 State and local license numbers and expiration dates as
15 well as the date on which the retail member joined the
16 cooperative purchase group;

17 (3) a retail licensee that is a party to the agreement
18 must not be a party to any other related cooperative
19 purchasing agreement;

20 (4) the agreement identifies and designates the name
21 and address of the agent or agents with the authority to
22 contract for the purchase and delivery of wine or spirits
23 on behalf of the cooperative purchase group;

1 (5) a copy of the executed agreement, including any
2 amendments, deletions, or additions, is kept on the
3 premises of each party to the agreement for a period of 3
4 years;

5 (6) a copy of the executed agreement, including any
6 amendments, deletions, or additions, is delivered to the
7 relevant licensee with distribution privileges and to the
8 State Commission before making any purchases under the
9 agreement; any amendments, deletions, or additions must be
10 submitted to the State Commission within 7 business days
11 after the amendment, deletion, or addition is executed;
12 and

13 (7) the agreement must designate whether the
14 cooperative purchase ~~purchasing~~ group is comprised of
15 retail licenses engaged in the sale of wine or spirits on
16 or off the premises.

17 (b) A retail licensee may, pursuant to a cooperative
18 purchasing agreement, make purchases as a member of a
19 cooperative purchase group or independently of any such group.
20 Nothing in this Section or any other Section of this Act shall
21 be construed to prohibit commonly or not commonly owned retail
22 licensees from making purchases separate and apart from any
23 membership in a cooperative purchase group.

24 (c) A retailer may only be a member of one cooperative
25 purchase group at a time. A retail licensee may change to a
26 different cooperative purchase group no more than twice in a

1 12-month period. However, if an existing cooperative purchase
2 group member purchases a retail location from a member of
3 another cooperative purchase group, the new owner of the
4 retail location may move the membership of the retail licensee
5 to a different cooperative purchase ~~purchasing~~ group.

6 (d) When a retail licensee joins an existing cooperative
7 purchase ~~purchasing~~ group, the new member must be a member for
8 a period of 7 days before being able to participate in any
9 quantity discount programs.

10 (e) Cooperative purchase ~~purchasing~~ group members must be
11 either all on-premises retail licensees or all off-premises
12 retail licensees. A licensee with a combined on-premises and
13 off-premises license may make purchases for on-premises use
14 only through an on-premises cooperative purchase group and may
15 make purchases for off-premises use only through an
16 off-premises cooperative purchase group.

17 (f) Any individual retail licensee that is a member of a
18 cooperative purchase group that fails to comply with the terms
19 and conditions of this Section may be deemed to be in violation
20 of Section 6-5. Any distributor or importing distributor that
21 fails to comply with this Section may be deemed to be in
22 violation of Section 6-5.

23 (g) The State Commission shall keep a list of the members
24 of each cooperative purchase group and shall make that list
25 available on its website.

26 (h) A retail licensee that is a member of a cooperative

1 purchase group shall not have an ownership interest, directly
2 or indirectly, in any entity licensed by this Act other than a
3 retailer.

4 (i) It is unlawful for a distributor or importing
5 distributor to furnish, give, or lend money or anything of
6 value to a cooperative agent.

7 (j) It is the duty of each retail licensee of the
8 cooperative purchase group to make books and records available
9 upon reasonable notice for the purpose of investigation and
10 control by the State Commission or any local liquor control
11 commission having jurisdiction over the retail licensee of the
12 cooperative purchase group.

13 (k) A cooperative agent shall not have an ownership
14 interest, directly or indirectly, in an entity licensed under
15 any other license category under this Act.

16 (l) A retailer, manufacturer, importing distributor,
17 distributor, or cooperative agent shall remain in compliance
18 with federal law pursuant to the prohibitions and exceptions
19 provided in 27 CFR Part 6 and any promulgated rules thereof.
20 Neither a A cooperative agent nor a cooperative purchase group
21 may that is compliant with Sections 6-5 and 6-6 shall not
22 receive cash or anything of value from a both the retail
23 licensee or and an importing distributor or distributor,
24 non-resident dealer, or manufacturer manufacturers as part of
25 a cooperative purchasing ~~group~~ agreement. Cooperative agents
26 and cooperative purchase groups may not have an ownership

1 interest, direct or indirect, in any business or enterprise
2 that provides marketing services or activities on behalf of
3 manufacturers, non-resident dealers, foreign importers,
4 importing distributors, and distributors. Cooperative agents
5 and cooperative purchase groups and owners thereof are
6 strictly prohibited from, directly or indirectly, accepting
7 things of value from, or providing marketing services or
8 activities on behalf of, manufacturers, non-resident dealers,
9 foreign importers, importing distributors, and distributors.
10 Cooperative agents and cooperative purchase groups, as agents
11 of retail licensees, are subject to the obligations and
12 restrictions of retail licensees, including, but not limited
13 to, Section 6-5, Section 6-6, Section 10-3, and 11 Ill. Adm.
14 Code 100.500.

15 (m) It is the duty of every cooperative agent and
16 cooperative purchase group to make books and records available
17 upon reasonable notice for the purpose of investigation and
18 control by the State Commission or any local liquor commission
19 having jurisdiction over a licensee member of a cooperative
20 purchase group.

21 (Source: P.A. 102-442, eff. 8-20-21.)

22 Section 10. The Liquor Control Act of 1934 is amended by
23 changing Section 6-9.15 as follows:

24 (235 ILCS 5/6-9.15)

1 Sec. 6-9.15. Quantity discounting terms for wine or
2 spirits cooperative purchase agreements.

3 (a) All wine or spirits quantity discount programs offered
4 to consumption off the premises retailers must be offered to
5 all consumption off the premises cooperative groups and
6 cooperative agents, and all quantity discount programs offered
7 to consumption on the premises retailers shall be offered to
8 all consumption on the premises cooperative groups and
9 cooperative agents. Quantity discount programs shall:

10 (1) be open and available for acceptance for 7
11 business days;

12 (2) be designed and implemented to produce product
13 volume growth with retail licensees;

14 (3) be based on the volume of product purchased;
15 however, discounts may include price reductions, cash, and
16 credits, and no-charge wine or spirits products may be
17 given instead of a discount;

18 (4) be documented on related sales invoices or credit
19 memoranda;

20 (5) not require a retail licensee to take and dispose
21 of any quota of wine or spirits; however, bona fide
22 quantity discounts shall not be deemed to be quota sales;
23 and

24 (6) not require a retail licensee to purchase one
25 product in order to purchase another; this includes
26 combination sales if one or more products may be purchased

1 only in combination with other products and not
2 individually.

3 (b) A distributor or importing distributor that makes
4 quantity discount sales to participating members of a
5 cooperative purchase group shall issue customary invoices to
6 each participating retail licensee itemizing the wine or
7 spirit sold and delivered as part of a quantity discount
8 program to each participating retail licensee.

9 (c) If a distributor or importing distributor offers a
10 quantity discount for wine or spirits, excluding any product
11 fermented with malt or any substitute for malt, cooperative
12 purchase groups shall purchase a minimum of 250 cases in each
13 quantity discount program. Each individual participating
14 member of a cooperative purchase group purchasing product
15 through a quantity discount program may be required to
16 purchase the following minimum amounts:

17 (1) 2% of cases of any quantity discount program of
18 500 or fewer cases.

19 (2) 1.5% of cases of any quantity discount program of
20 at least 501 and not more than 2,000 cases.

21 (3) 1% of cases of any quantity discount program of
22 2,001 or more cases.

23 (d) The cooperative agent shall place each cooperative
24 purchase order under the name of the cooperative purchase
25 group and shall identify each participating retail member
26 involved with the purchase, the quantity of product purchased,

1 the price attributable to each retailer member's purchase, and
2 a requested delivery date. A retail licensee may make
3 purchases through a cooperative purchase ~~purchasing~~ group or
4 independently of such group. Nothing in this Section shall be
5 construed to prohibit retail licensees from making purchases
6 separate and apart from any cooperative purchase ~~purchasing~~
7 group.

8 (e) Each distributor or importing distributor shall
9 separately invoice each participating cooperative purchase
10 group member for the purchase made on behalf of such
11 participating member.

12 (f) A cooperative purchase ~~purchasing~~ group shall maintain
13 the records of each cooperative purchase order placed for 90
14 days. The records shall include:

15 (1) the date the cooperative purchase ~~purchasing~~ group
16 order was placed and the date of any amendments to the
17 order;

18 (2) the distributor or importing distributor with
19 which the cooperative purchase ~~purchasing~~ group placed the
20 order;

21 (3) the names and license numbers of each cooperative
22 purchase ~~purchasing~~ group member participating in the
23 order;

24 (4) the price discounts and net price of all wine or
25 spirits ordered by each cooperative purchase group member;
26 and

1 (5) the requested delivery date for the order.

2 (g) A cooperative purchase group is subject to the books
3 and records requirements of Section 6-10 and subsection (e) of
4 11 Ill. Adm. Code 100.130.

5 (h) A cooperative purchase ~~purchasing~~ group shall retain a
6 surety bond in favor of each distributor with which it
7 conducts business at all times for no less than \$250,000. The
8 bond shall provide a street address at which bond claims may be
9 submitted. If a cooperative purchase ~~purchasing~~ group member
10 is delinquent in payment pursuant to Section 6-5 on a purchase
11 made through a cooperative purchase group or directly between
12 the cooperative member and a distributor, the surety shall
13 ~~immediately~~ pay the ~~importing distributor or~~ distributor the
14 delinquent amount, unless the delinquent member submits a bona
15 fide dispute to the State Commission within 5 business days.
16 The surety bond required by this Section may be acquired from a
17 company, agent, or broker of the cooperative purchase group's
18 choice. If the surety bond does not cure the indebtedness
19 within 5 business days after receipt of the demand and if the
20 delinquent member has not submitted a bona fide dispute to the
21 State Commission, the 30-day merchandising credit requirements
22 of Section 6-5 shall apply jointly to each cooperative
23 purchase ~~purchasing~~ group until the indebtedness is cured. The
24 cooperative purchase ~~purchasing~~ group is responsible for all
25 costs and fees related to the surety bond.

26 (i) Any licensee that fails to comply with the terms and

1 conditions of this Section may be deemed to be in violation of
2 this Act.

3 (j) Nothing in this Section shall apply to quantity
4 discount programs offered for any product fermented with malt
5 or any substitute for malt. Nothing in this Section shall be
6 construed to prohibit, limit, or interfere with quantity
7 discount, credit, or rebate programs offered for any product
8 fermented with malt or any substitute for malt.

9 (Source: P.A. 102-442, eff. 8-20-21; 103-154, eff. 6-30-23.)