



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0138

Introduced 1/11/2005, by Rep. Timothy L. Schmitz

SYNOPSIS AS INTRODUCED:

235 ILCS 5/1-3.05
235 ILCS 5/5-1

from Ch. 43, par. 95.05
from Ch. 43, par. 115

Amends the Liquor Control Act of 1934. Defines "alcoholic beverages" to mean the same as "alcoholic liquor". Provides that a distributor's licensee may store alcoholic liquor only in its licensed premises. Effective immediately.

LRB094 03643 LRD 33648 b

1 AN ACT in relation to alcoholic 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 Sections 1-3.05 and 5-1 as follows:

6 (235 ILCS 5/1-3.05) (from Ch. 43, par. 95.05)

7 Sec. 1-3.05. "Alcoholic liquor" or "alcoholic beverages"
8 includes alcohol, spirits, wine and beer, and every liquid or
9 solid, patented or not, containing alcohol, spirits, wine or
10 beer, and capable of being consumed as a beverage by a human
11 being. The provisions of this Act shall not apply to alcohol
12 used in the manufacture of denatured alcohol produced in
13 accordance with Acts of Congress and regulations promulgated
14 thereunder, nor to any liquid or solid containing one-half of
15 one per cent, or less, of alcohol by volume. No tax provided
16 for in Article VIII of this Act shall apply to wine intended
17 for use and used by any church or religious organization for
18 sacramental purposes, provided that such wine shall be
19 purchased from a licensed manufacturer or importing
20 distributor under this Act.

21 (Source: P.A. 82-783.)

22 (235 ILCS 5/5-1) (from Ch. 43, par. 115)

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

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

30 (b) Distributor's license,

31 (c) Importing Distributor's license,

- 1 (d) Retailer's license,
- 2 (e) Special Event Retailer's license (not-for-profit),
- 3 (f) Railroad license,
- 4 (g) Boat license,
- 5 (h) Non-Beverage User's license,
- 6 (i) Wine-maker's premises license,
- 7 (j) Airplane license,
- 8 (k) Foreign importer's license,
- 9 (l) Broker's license,
- 10 (m) Non-resident dealer's license,
- 11 (n) Brew Pub license,
- 12 (o) Auction liquor license,
- 13 (p) Caterer retailer license,
- 14 (q) Special use permit license.

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

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

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

27 Class 2. A Rectifier, who is not a distiller, as defined
28 herein, may make sales and deliveries of alcoholic liquor to
29 rectifiers, importing distributors, distributors, retailers
30 and non-beverage users and to no other licensees.

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

36 Class 4. A first class wine-manufacturer may make sales and

1 deliveries of up to 50,000 gallons of wine to manufacturers,
2 importing distributors and distributors, and to no other
3 licensees.

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

8 Class 6. A first-class wine-maker's license shall allow the
9 manufacture of up to 50,000 gallons of wine per year, and the
10 storage and sale of such wine to distributors in the State and
11 to persons without the State, as may be permitted by law. A
12 first-class wine-maker's license shall allow the sale of no
13 more than 5,000 gallons of the licensee's wine to retailers.
14 The State Commission shall issue only one first-class
15 wine-maker's license to any person, firm, partnership,
16 corporation, or other legal business entity that is engaged in
17 the making of less than 50,000 gallons of wine annually that
18 applies for a first-class wine-maker's license. No subsidiary
19 or affiliate thereof, nor any officer, associate, member,
20 partner, representative, employee, agent, or shareholder may
21 be issued an additional wine-maker's license by the State
22 Commission.

23 Class 7. A second-class wine-maker's license shall allow
24 the manufacture of between 50,000 and 100,000 gallons of wine
25 per year, and the storage and sale of such wine to distributors
26 in this State and to persons without the State, as may be
27 permitted by law. A second-class wine-maker's license shall
28 allow the sale of no more than 10,000 gallons of the licensee's
29 wine directly to retailers. The State Commission shall issue
30 only one second-class wine-maker's license to any person, firm,
31 partnership, corporation, or other legal business entity that
32 is engaged in the making of less than 100,000 gallons of wine
33 annually that applies for a second-class wine-maker's license.
34 No subsidiary or affiliate thereof, or any officer, associate,
35 member, partner, representative, employee, agent, or
36 shareholder may be issued an additional wine-maker's license by

1 the State Commission.

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

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

12 Registration of agents, representatives, or persons acting
13 on behalf of a manufacturer is fulfilled by submitting a form
14 to the Commission. The form shall be developed by the
15 Commission and shall include the name and address of the
16 applicant, the name and address of the manufacturer he or she
17 represents, the territory or areas assigned to sell to or
18 discuss pricing terms of alcoholic liquor, and any other
19 questions deemed appropriate and necessary. All statements in
20 the forms required to be made by law or by rule shall be deemed
21 material, and any person who knowingly misstates any material
22 fact under oath in an application is guilty of a Class B
23 misdemeanor. Fraud, misrepresentation, false statements,
24 misleading statements, evasions, or suppression of material
25 facts in the securing of a registration are grounds for
26 suspension or revocation of the registration.

27 (b) A distributor's license shall allow the wholesale
28 purchase and storage of alcoholic liquors and sale of alcoholic
29 liquors to licensees in this State and to persons without the
30 State, as may be permitted by law. A distributor's licensee may
31 store alcoholic liquor only in the premises in which the
32 distributor's licensee is licensed to engage in business in
33 Illinois as a distributor.

34 (c) An importing distributor's license may be issued to and
35 held by those only who are duly licensed distributors, upon the
36 filing of an application by a duly licensed distributor, with

1 the Commission and the Commission shall, without the payment of
2 any fee, immediately issue such importing distributor's
3 license to the applicant, which shall allow the importation of
4 alcoholic liquor by the licensee into this State from any point
5 in the United States outside this State, and the purchase of
6 alcoholic liquor in barrels, casks or other bulk containers and
7 the bottling of such alcoholic liquors before resale thereof,
8 but all bottles or containers so filled shall be sealed,
9 labeled, stamped and otherwise made to comply with all
10 provisions, rules and regulations governing manufacturers in
11 the preparation and bottling of alcoholic liquors. The
12 importing distributor's license shall permit such licensee to
13 purchase alcoholic liquor from Illinois licensed non-resident
14 dealers and foreign importers only.

15 (d) A retailer's license shall allow the licensee to sell
16 and offer for sale at retail, only in the premises specified in
17 the license, alcoholic liquor for use or consumption, but not
18 for resale in any form: Provided that any retail license issued
19 to a manufacturer shall only permit the manufacturer to sell
20 beer at retail on the premises actually occupied by the
21 manufacturer. For the purpose of further describing the type of
22 business conducted at a retail licensed premises, a retailer's
23 licensee may be designated by the State Commission as (i) an on
24 premise consumption retailer, (ii) an off premise sale
25 retailer, or (iii) a combined on premise consumption and off
26 premise sale retailer.

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

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

1 offer for sale, at retail, alcoholic liquors for use or
2 consumption, but not for resale in any form and only at the
3 location and on the specific dates designated for the special
4 event in the license. An applicant for a special event retailer
5 license must (i) furnish with the application: (A) a resale
6 number issued under Section 2c of the Retailers' Occupation Tax
7 Act or evidence that the applicant is registered under Section
8 2a of the Retailers' Occupation Tax Act, (B) a current, valid
9 exemption identification number issued under Section 1g of the
10 Retailers' Occupation Tax Act, and a certification to the
11 Commission that the purchase of alcoholic liquors will be a
12 tax-exempt purchase, or (C) a statement that the applicant is
13 not registered under Section 2a of the Retailers' Occupation
14 Tax Act, does not hold a resale number under Section 2c of the
15 Retailers' Occupation Tax Act, and does not hold an exemption
16 number under Section 1g of the Retailers' Occupation Tax Act,
17 in which event the Commission shall set forth on the special
18 event retailer's license a statement to that effect; (ii)
19 submit with the application proof satisfactory to the State
20 Commission that the applicant will provide dram shop liability
21 insurance in the maximum limits; and (iii) show proof
22 satisfactory to the State Commission that the applicant has
23 obtained local authority approval.

24 (f) A railroad license shall permit the licensee to import
25 alcoholic liquors into this State from any point in the United
26 States outside this State and to store such alcoholic liquors
27 in this State; to make wholesale purchases of alcoholic liquors
28 directly from manufacturers, foreign importers, distributors
29 and importing distributors from within or outside this State;
30 and to store such alcoholic liquors in this State; provided
31 that the above powers may be exercised only in connection with
32 the importation, purchase or storage of alcoholic liquors to be
33 sold or dispensed on a club, buffet, lounge or dining car
34 operated on an electric, gas or steam railway in this State;
35 and provided further, that railroad licensees exercising the
36 above powers shall be subject to all provisions of Article VIII

1 of this Act as applied to importing distributors. A railroad
 2 license shall also permit the licensee to sell or dispense
 3 alcoholic liquors on any club, buffet, lounge or dining car
 4 operated on an electric, gas or steam railway regularly
 5 operated by a common carrier in this State, but shall not
 6 permit the sale for resale of any alcoholic liquors to any
 7 licensee within this State. A license shall be obtained for
 8 each car in which such sales are made.

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

15 (h) A non-beverage user's license shall allow the licensee
 16 to purchase alcoholic liquor from a licensed manufacturer or
 17 importing distributor, without the imposition of any tax upon
 18 the business of such licensed manufacturer or importing
 19 distributor as to such alcoholic liquor to be used by such
 20 licensee solely for the non-beverage purposes set forth in
 21 subsection (a) of Section 8-1 of this Act, and such licenses
 22 shall be divided and classified and shall permit the purchase,
 23 possession and use of limited and stated quantities of
 24 alcoholic liquor as follows:

- 25 Class 1, not to exceed 500 gallons
- 26 Class 2, not to exceed 1,000 gallons
- 27 Class 3, not to exceed 5,000 gallons
- 28 Class 4, not to exceed 10,000 gallons
- 29 Class 5, not to exceed 50,000 gallons

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

1 a licensee who concurrently holds a second-class wine-maker's
2 license to sell and offer for sale at retail in the premises
3 specified in such license up to 100,000 gallons of the
4 second-class wine-maker's wine that is made at the second-class
5 wine-maker's licensed premises per year for use or consumption
6 but not for resale in any form. A wine-maker's premises license
7 shall allow a licensee that concurrently holds a first-class
8 wine-maker's license or a second-class wine-maker's license to
9 sell and offer for sale at retail at the premises specified in
10 the wine-maker's premises license, for use or consumption but
11 not for resale in any form, any beer, wine, and spirits
12 purchased from a licensed distributor. Upon approval from the
13 State Commission, a wine-maker's premises license shall allow
14 the licensee to sell and offer for sale at (i) the wine-maker's
15 licensed premises and (ii) at up to 2 additional locations for
16 use and consumption and not for resale. Each location shall
17 require additional licensing per location as specified in
18 Section 5-3 of this Act.

19 (j) An airplane license shall permit the licensee to import
20 alcoholic liquors into this State from any point in the United
21 States outside this State and to store such alcoholic liquors
22 in this State; to make wholesale purchases of alcoholic liquors
23 directly from manufacturers, foreign importers, distributors
24 and importing distributors from within or outside this State;
25 and to store such alcoholic liquors in this State; provided
26 that the above powers may be exercised only in connection with
27 the importation, purchase or storage of alcoholic liquors to be
28 sold or dispensed on an airplane; and provided further, that
29 airplane licensees exercising the above powers shall be subject
30 to all provisions of Article VIII of this Act as applied to
31 importing distributors. An airplane licensee shall also permit
32 the sale or dispensing of alcoholic liquors on any passenger
33 airplane regularly operated by a common carrier in this State,
34 but shall not permit the sale for resale of any alcoholic
35 liquors to any licensee within this State. A single airplane
36 license shall be required of an airline company if liquor

1 service is provided on board aircraft in this State. The annual
2 fee for such license shall be as determined in Section 5-3.

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

16 (l) (i) A broker's license shall be required of all persons
17 who solicit orders for, offer to sell or offer to supply
18 alcoholic liquor to retailers in the State of Illinois, or who
19 offer to retailers to ship or cause to be shipped or to make
20 contact with distillers, rectifiers, brewers or manufacturers
21 or any other party within or without the State of Illinois in
22 order that alcoholic liquors be shipped to a distributor,
23 importing distributor or foreign importer, whether such
24 solicitation or offer is consummated within or without the
25 State of Illinois.

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

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

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

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

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

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

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

35 (n) A brew pub license shall allow the licensee to
36 manufacture beer only on the premises specified in the license,

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

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

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

20 (q) A special use permit license shall allow an Illinois
21 licensed retailer to transfer a portion of its alcoholic liquor
22 inventory from its retail licensed premises to the premises
23 specified in the license hereby created, and to sell or offer
24 for sale at retail, only in the premises specified in the
25 license hereby created, the transferred alcoholic liquor for
26 use or consumption, but not for resale in any form. A special
27 use permit license may be granted for the following time
28 periods: one day or less; 2 or more days to a maximum of 15 days
29 per location in any 12 month period. An applicant for the
30 special use permit license must also submit with the
31 application proof satisfactory to the State Commission that the
32 applicant will provide dram shop liability insurance to the
33 maximum limits and have local authority approval.

34 (Source: P.A. 92-105, eff. 1-1-02; 92-378, eff. 8-16-01;
35 92-651, eff. 7-11-02; 92-672, eff. 7-16-02; 93-923, eff.
36 8-12-04; 93-1057, eff. 12-2-04; revised 12-6-04.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.