



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB2462

Introduced 2/19/2009, by Rep. Julie Hamos

#### SYNOPSIS AS INTRODUCED:

235 ILCS 5/3-12	from Ch. 43, par. 108
235 ILCS 5/5-1	from Ch. 43, par. 115
235 ILCS 5/5-3	from Ch. 43, par. 118
235 ILCS 5/6-36 new	

Amends the Liquor Control Act of 1934. Creates a retail wine shipper's license, which allows a person with a wine retailing or wine auctioning license under the laws of another state to ship wine directly to a resident of this State who is 21 years of age or older for that resident's personal use and not for resale. Sets forth the licensure requirements, license fee, grounds for discipline, and administrative procedure. Provides that sale and shipment by a retail wine shipper licensee pursuant to this Act shall be deemed to constitute a sale in this State for the purposes of the Retailers' Occupation Tax Act. Requires specific labelling on each shipment. Provides that nonpayment of taxes for all wine that is sold and shipped to a person in this State will result in revocation of the license. Effective immediately.

LRB096 04346 ASK 14393 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 5. The Liquor Control Act of 1934 is amended by  
5 changing Sections 3-12, 5-1, and 5-3 and by adding Section 6-36  
6 as follows:

7 (235 ILCS 5/3-12) (from Ch. 43, par. 108)

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

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

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

1 regulation issued pursuant thereto and in effect for 30  
2 days prior to such violation. Except in the case of an  
3 action taken pursuant to a violation of Section 6-3, 6-5,  
4 or 6-9, any action by the State Commission to suspend or  
5 revoke a licensee's license may be limited to the license  
6 for the specific premises where the violation 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 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. The fine imposed under this  
13 paragraph may not exceed \$500 for each violation. Each day  
14 that the activity, which gave rise to the original fine,  
15 continues is a separate violation. The maximum fine that  
16 may be levied against any licensee, for the period of the  
17 license, shall not exceed \$20,000. The maximum penalty that  
18 may be imposed on a licensee for selling a bottle of  
19 alcoholic liquor with a foreign object in it or serving  
20 from a bottle of alcoholic liquor with a foreign object in  
21 it shall be the destruction of that bottle of alcoholic  
22 liquor for the first 10 bottles so sold or served from by  
23 the licensee. For the eleventh bottle of alcoholic liquor  
24 and for each third bottle thereafter sold or served from by  
25 the licensee with a foreign object in it, the maximum  
26 penalty that may be imposed on the licensee is the

1 destruction of the bottle of alcoholic liquor and a fine of  
2 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 Commission has  
17 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 Commission is satisfied that the alleged violation did  
22 occur, it shall proceed with disciplinary action against  
23 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 commission shall establish uniform systems of  
5 accounts to be kept by all retail licensees having more  
6 than 4 employees, and for this purpose the commission may  
7 classify all retail licensees having more than 4 employees  
8 and establish a uniform system of accounts for each class  
9 and prescribe the manner in which such accounts shall be  
10 kept. The commission may also prescribe the forms of  
11 accounts to be kept by all retail licensees having more  
12 than 4 employees, including but not limited to accounts of  
13 earnings and expenses and any distribution, payment, or  
14 other distribution of earnings or assets, and any other  
15 forms, records and memoranda which in the judgment of the  
16 commission may be necessary or appropriate to carry out any  
17 of the provisions of this Act, including but not limited to  
18 such forms, records and memoranda as will readily and  
19 accurately disclose at all times the beneficial ownership  
20 of such retail licensed business. The accounts, forms,  
21 records and memoranda shall be available at all reasonable  
22 times for inspection by authorized representatives of the  
23 State commission or by any local liquor control  
24 commissioner or his or her authorized representative. The  
25 commission, may, from time to time, alter, amend or repeal,  
26 in whole or in part, any uniform system of accounts, or the

1 form and manner of keeping accounts.

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

16 Any Circuit Court may by order duly entered, require  
17 the attendance of witnesses and the production of relevant  
18 books subpoenaed by the State commission and the court may  
19 compel obedience to its order by proceedings for contempt.

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

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

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

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

19          (12) To develop and maintain a repository of license  
20 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 of  
25 Section 1926 of the Federal ADAMHA Reorganization Act of  
26 1992 (Public Law 102-321). This study shall address the



1 extent to which Illinois currently complies with the  
2 provisions of P.L. 102-321 and the rules promulgated  
3 pursuant thereto.

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

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

8 (ii) the number of reported citations and  
9 successful convictions, categorized by type and  
10 location of retail distributor, for violation of the  
11 Sale of Tobacco to Minors Act and the Smokeless Tobacco  
12 Limitation Act;

13 (iii) the extent and nature of organized  
14 educational and governmental activities that are  
15 intended to promote, encourage or otherwise secure  
16 compliance with any Illinois laws that prohibit the  
17 sale or distribution of tobacco products to minors; and

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

20 To obtain the data necessary to comply with the  
21 provisions of P.L. 102-321 and the requirements of this  
22 report, the Commission shall conduct random, unannounced  
23 inspections of a geographically and scientifically  
24 representative sample of the State's retail tobacco  
25 distributors.

26 The Commission shall consult with the Department of

1 Public Health, the Department of Human Services, the  
2 Illinois State Police and any other executive branch  
3 agency, and private organizations that may have  
4 information relevant to this report.

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

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

20 (A) The amount of State excise and sales tax  
21 revenues generated.

22 (B) The amount of licensing fees received.

23 (C) The number of cases of wine shipped from inside  
24 and outside of this State directly to residents of this  
25 State.

26 (D) The number of alcohol compliance operations

1 conducted.

2 (E) The number of winery shipper's licenses and  
3 retail wine shipper's licenses issued.

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

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

20 (16) The Commission shall, in addition to notifying any  
21 appropriate law enforcement agency, submit notices of  
22 complaints or violations of Sections 6-29 and 6-29.1 by  
23 persons who do not hold a winery shipper's license or  
24 retail wine shipper's license under this amendatory Act to  
25 the Illinois Attorney General and to the U.S. Department of  
26 Treasury's Alcohol and Tobacco Tax and Trade Bureau.

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

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

23           (C) The Commission shall approve the application  
24 for a self-distribution exemption if such person: (1)  
25 is in compliance with State revenue and liquor laws;  
26 (2) is not a member of any affiliated group that

1 produces more than 25,000 gallons of wine per annum or  
2 produces any other alcoholic liquor; (3) will not  
3 annually produce for sale more than 25,000 gallons of  
4 wine; and (4) will not annually sell more than 5,000  
5 gallons of its wine to retail licensees.

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

18 (E) Except in hearings for violations of this Act  
19 or amendatory Act or a bona fide investigation by duly  
20 sworn law enforcement officials, the Commission, or  
21 its agents, the Commission shall maintain the  
22 production and sales information of a  
23 self-distribution exemption holder as confidential and  
24 shall not release such information to any person.

25 (F) The Commission shall issue regulations  
26 governing self-distribution exemptions consistent with

1           this Section and this Act.

2           (G) Nothing in this subsection (17) shall prohibit  
3           a self-distribution exemption holder from entering  
4           into or simultaneously having a distribution agreement  
5           with a licensed Illinois distributor.

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

19          (b) On or before April 30, 1999, the Commission shall  
20          present a written report to the Governor and the General  
21          Assembly that shall be based on a study of the impact of this  
22          amendatory Act of 1998 on the business of soliciting, selling,  
23          and shipping alcoholic liquor from outside of this State  
24          directly to residents of this State.

25          As part of its report, the Commission shall provide the  
26          following information:

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

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

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

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

11 (235 ILCS 5/5-1) (from Ch. 43, par. 115)

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

14 (a) Manufacturer's license - Class 1. Distiller, Class 2.  
15 Rectifier, Class 3. Brewer, Class 4. First Class Wine  
16 Manufacturer, Class 5. Second Class Wine Manufacturer, Class 6.  
17 First Class Winemaker, Class 7. Second Class Winemaker, Class  
18 8. Limited Wine Manufacturer,

19 (b) Distributor's license,

20 (c) Importing Distributor's license,

21 (d) Retailer's license,

22 (e) Special Event Retailer's license (not-for-profit),

23 (f) Railroad license,

24 (g) Boat license,

25 (h) Non-Beverage User's license,

- 1 (i) Wine-maker's premises license,  
2 (j) Airplane license,  
3 (k) Foreign importer's license,  
4 (l) Broker's license,  
5 (m) Non-resident dealer's license,  
6 (n) Brew Pub license,  
7 (o) Auction liquor license,  
8 (p) Caterer retailer license,  
9 (q) Special use permit license,  
10 (r) Winery shipper's license, ~~—~~  
11 (s) Retail wine shipper's license.

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

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

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

24 Class 2. A Rectifier, who is not a distiller, as defined  
25 herein, may make sales and deliveries of alcoholic liquor to  
26 rectifiers, importing distributors, distributors, retailers



1 and non-beverage users and to no other licensees.

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

7 Class 4. A first class wine-manufacturer may make sales and  
8 deliveries of up to 50,000 gallons of wine to manufacturers,  
9 importing distributors and distributors, and to no other  
10 licensees.

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

15 Class 6. A first-class wine-maker's license shall allow the  
16 manufacture of up to 50,000 gallons of wine per year, and the  
17 storage and sale of such wine to distributors in the State and  
18 to persons without the State, as may be permitted by law. A  
19 person who, prior to the effective date of this amendatory Act  
20 of the 95th General Assembly, is a holder of a first-class  
21 wine-maker's license and annually produces more than 25,000  
22 gallons of its own wine and who distributes its wine to  
23 licensed retailers shall cease this practice on or before July  
24 1, 2008 in compliance with this amendatory Act of the 95th  
25 General Assembly.

26 Class 7. A second-class wine-maker's license shall allow

1 the manufacture of between 50,000 and 150,000 gallons of wine  
2 per year, and the storage and sale of such wine to distributors  
3 in this State and to persons without the State, as may be  
4 permitted by law. A person who, prior to the effective date of  
5 this amendatory Act of the 95th General Assembly, is a holder  
6 of a second-class wine-maker's license and annually produces  
7 more than 25,000 gallons of its own wine and who distributes  
8 its wine to licensed retailers shall cease this practice on or  
9 before July 1, 2008 in compliance with this amendatory Act of  
10 the 95th General Assembly.

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

15 (a-1) A manufacturer which is licensed in this State to  
16 make sales or deliveries of alcoholic liquor and which enlists  
17 agents, representatives, or individuals acting on its behalf  
18 who contact licensed retailers on a regular and continual basis  
19 in this State must register those agents, representatives, or  
20 persons acting on its behalf with the State Commission.

21 Registration of agents, representatives, or persons acting  
22 on behalf of a manufacturer is fulfilled by submitting a form  
23 to the Commission. The form shall be developed by the  
24 Commission and shall include the name and address of the  
25 applicant, the name and address of the manufacturer he or she  
26 represents, the territory or areas assigned to sell to or

1 discuss pricing terms of alcoholic liquor, and any other  
2 questions deemed appropriate and necessary. All statements in  
3 the forms required to be made by law or by rule shall be deemed  
4 material, and any person who knowingly misstates any material  
5 fact under oath in an application is guilty of a Class B  
6 misdemeanor. Fraud, misrepresentation, false statements,  
7 misleading statements, evasions, or suppression of material  
8 facts in the securing of a registration are grounds for  
9 suspension or revocation of the registration.

10 (b) A distributor's license shall allow the wholesale  
11 purchase and storage of alcoholic liquors and sale of alcoholic  
12 liquors to licensees in this State and to persons without the  
13 State, as may be permitted by law.

14 (c) An importing distributor's license may be issued to and  
15 held by those only who are duly licensed distributors, upon the  
16 filing of an application by a duly licensed distributor, with  
17 the Commission and the Commission shall, without the payment of  
18 any fee, immediately issue such importing distributor's  
19 license to the applicant, which shall allow the importation of  
20 alcoholic liquor by the licensee into this State from any point  
21 in the United States outside this State, and the purchase of  
22 alcoholic liquor in barrels, casks or other bulk containers and  
23 the bottling of such alcoholic liquors before resale thereof,  
24 but all bottles or containers so filled shall be sealed,  
25 labeled, stamped and otherwise made to comply with all  
26 provisions, rules and regulations governing manufacturers in

1 the preparation and bottling of alcoholic liquors. The  
2 importing distributor's license shall permit such licensee to  
3 purchase alcoholic liquor from Illinois licensed non-resident  
4 dealers and foreign importers only.

5 (d) A retailer's license shall allow the licensee to sell  
6 and offer for sale at retail, only in the premises specified in  
7 the license, alcoholic liquor for use or consumption, but not  
8 for resale in any form. Nothing in this amendatory Act of the  
9 95th General Assembly shall deny, limit, remove, or restrict  
10 the ability of a holder of a retailer's license to transfer,  
11 deliver, or ship alcoholic liquor to the purchaser for use or  
12 consumption subject to any applicable local law or ordinance.  
13 Any retail license issued to a manufacturer shall only permit  
14 the manufacturer to sell beer at retail on the premises  
15 actually occupied by the manufacturer. For the purpose of  
16 further describing the type of business conducted at a retail  
17 licensed premises, a retailer's licensee may be designated by  
18 the State Commission as (i) an on premise consumption retailer,  
19 (ii) an off premise sale retailer, or (iii) a combined on  
20 premise consumption and off premise sale retailer.

21 Notwithstanding any other provision of this subsection  
22 (d), a retail licensee may sell alcoholic liquors to a special  
23 event retailer licensee for resale to the extent permitted  
24 under subsection (e).

25 (e) A special event retailer's license (not-for-profit)  
26 shall permit the licensee to purchase alcoholic liquors from an

1 Illinois licensed distributor (unless the licensee purchases  
2 less than \$500 of alcoholic liquors for the special event, in  
3 which case the licensee may purchase the alcoholic liquors from  
4 a licensed retailer) and shall allow the licensee to sell and  
5 offer for sale, at retail, alcoholic liquors for use or  
6 consumption, but not for resale in any form and only at the  
7 location and on the specific dates designated for the special  
8 event in the license. An applicant for a special event retailer  
9 license must (i) furnish with the application: (A) a resale  
10 number issued under Section 2c of the Retailers' Occupation Tax  
11 Act or evidence that the applicant is registered under Section  
12 2a of the Retailers' Occupation Tax Act, (B) a current, valid  
13 exemption identification number issued under Section 1g of the  
14 Retailers' Occupation Tax Act, and a certification to the  
15 Commission that the purchase of alcoholic liquors will be a  
16 tax-exempt purchase, or (C) a statement that the applicant is  
17 not registered under Section 2a of the Retailers' Occupation  
18 Tax Act, does not hold a resale number under Section 2c of the  
19 Retailers' Occupation Tax Act, and does not hold an exemption  
20 number under Section 1g of the Retailers' Occupation Tax Act,  
21 in which event the Commission shall set forth on the special  
22 event retailer's license a statement to that effect; (ii)  
23 submit with the application proof satisfactory to the State  
24 Commission that the applicant will provide dram shop liability  
25 insurance in the maximum limits; and (iii) show proof  
26 satisfactory to the State Commission that the applicant has

1 obtained local authority approval.

2 (f) A railroad license shall permit the licensee to import  
3 alcoholic liquors into this State from any point in the United  
4 States outside this State and to store such alcoholic liquors  
5 in this State; to make wholesale purchases of alcoholic liquors  
6 directly from manufacturers, foreign importers, distributors  
7 and importing distributors from within or outside this State;  
8 and to store such alcoholic liquors in this State; provided  
9 that the above powers may be exercised only in connection with  
10 the importation, purchase or storage of alcoholic liquors to be  
11 sold or dispensed on a club, buffet, lounge or dining car  
12 operated on an electric, gas or steam railway in this State;  
13 and provided further, that railroad licensees exercising the  
14 above powers shall be subject to all provisions of Article VIII  
15 of this Act as applied to importing distributors. A railroad  
16 license shall also permit the licensee to sell or dispense  
17 alcoholic liquors on any club, buffet, lounge or dining car  
18 operated on an electric, gas or steam railway regularly  
19 operated by a common carrier in this State, but shall not  
20 permit the sale for resale of any alcoholic liquors to any  
21 licensee within this State. A license shall be obtained for  
22 each car in which such sales are made.

23 (g) A boat license shall allow the sale of alcoholic liquor  
24 in individual drinks, on any passenger boat regularly operated  
25 as a common carrier on navigable waters in this State or on any  
26 riverboat operated under the Riverboat Gambling Act, which boat

1 or riverboat maintains a public dining room or restaurant  
2 thereon.

3 (h) A non-beverage user's license shall allow the licensee  
4 to purchase alcoholic liquor from a licensed manufacturer or  
5 importing distributor, without the imposition of any tax upon  
6 the business of such licensed manufacturer or importing  
7 distributor as to such alcoholic liquor to be used by such  
8 licensee solely for the non-beverage purposes set forth in  
9 subsection (a) of Section 8-1 of this Act, and such licenses  
10 shall be divided and classified and shall permit the purchase,  
11 possession and use of limited and stated quantities of  
12 alcoholic liquor as follows:

- 13 Class 1, not to exceed ..... 500 gallons
- 14 Class 2, not to exceed ..... 1,000 gallons
- 15 Class 3, not to exceed ..... 5,000 gallons
- 16 Class 4, not to exceed ..... 10,000 gallons
- 17 Class 5, not to exceed ..... 50,000 gallons

18 (i) A wine-maker's premises license shall allow a licensee  
19 that concurrently holds a first-class wine-maker's license to  
20 sell and offer for sale at retail in the premises specified in  
21 such license not more than 50,000 gallons of the first-class  
22 wine-maker's wine that is made at the first-class wine-maker's  
23 licensed premises per year for use or consumption, but not for  
24 resale in any form. A wine-maker's premises license shall allow  
25 a licensee who concurrently holds a second-class wine-maker's  
26 license to sell and offer for sale at retail in the premises

1 specified in such license up to 100,000 gallons of the  
2 second-class wine-maker's wine that is made at the second-class  
3 wine-maker's licensed premises per year for use or consumption  
4 but not for resale in any form. A wine-maker's premises license  
5 shall allow a licensee that concurrently holds a first-class  
6 wine-maker's license or a second-class wine-maker's license to  
7 sell and offer for sale at retail at the premises specified in  
8 the wine-maker's premises license, for use or consumption but  
9 not for resale in any form, any beer, wine, and spirits  
10 purchased from a licensed distributor. Upon approval from the  
11 State Commission, a wine-maker's premises license shall allow  
12 the licensee to sell and offer for sale at (i) the wine-maker's  
13 licensed premises and (ii) at up to 2 additional locations for  
14 use and consumption and not for resale. Each location shall  
15 require additional licensing per location as specified in  
16 Section 5-3 of this Act. A wine-maker's premises licensee shall  
17 secure liquor liability insurance coverage in an amount at  
18 least equal to the maximum liability amounts set forth in  
19 subsection (a) of Section 6-21 of this Act.

20 (j) An airplane license shall permit the licensee to import  
21 alcoholic liquors into this State from any point in the United  
22 States outside this State and to store such alcoholic liquors  
23 in this State; to make wholesale purchases of alcoholic liquors  
24 directly from manufacturers, foreign importers, distributors  
25 and importing distributors from within or outside this State;  
26 and to store such alcoholic liquors in this State; provided



1 that the above powers may be exercised only in connection with  
2 the importation, purchase or storage of alcoholic liquors to be  
3 sold or dispensed on an airplane; and provided further, that  
4 airplane licensees exercising the above powers shall be subject  
5 to all provisions of Article VIII of this Act as applied to  
6 importing distributors. An airplane licensee shall also permit  
7 the sale or dispensing of alcoholic liquors on any passenger  
8 airplane regularly operated by a common carrier in this State,  
9 but shall not permit the sale for resale of any alcoholic  
10 liquors to any licensee within this State. A single airplane  
11 license shall be required of an airline company if liquor  
12 service is provided on board aircraft in this State. The annual  
13 fee for such license shall be as determined in Section 5-3.

14 (k) A foreign importer's license shall permit such licensee  
15 to purchase alcoholic liquor from Illinois licensed  
16 non-resident dealers only, and to import alcoholic liquor other  
17 than in bulk from any point outside the United States and to  
18 sell such alcoholic liquor to Illinois licensed importing  
19 distributors and to no one else in Illinois; provided that (i)  
20 the foreign importer registers with the State Commission every  
21 brand of alcoholic liquor that it proposes to sell to Illinois  
22 licensees during the license period, (ii) the foreign importer  
23 complies with all of the provisions of Section 6-9 of this Act  
24 with respect to registration of such Illinois licensees as may  
25 be granted the right to sell such brands at wholesale, and  
26 (iii) the foreign importer complies with the provisions of

1 Sections 6-5 and 6-6 of this Act to the same extent that these  
2 provisions apply to manufacturers.

3 (1) (i) A broker's license shall be required of all persons  
4 who solicit orders for, offer to sell or offer to supply  
5 alcoholic liquor to retailers in the State of Illinois, or who  
6 offer to retailers to ship or cause to be shipped or to make  
7 contact with distillers, rectifiers, brewers or manufacturers  
8 or any other party within or without the State of Illinois in  
9 order that alcoholic liquors be shipped to a distributor,  
10 importing distributor or foreign importer, whether such  
11 solicitation or offer is consummated within or without the  
12 State of Illinois.

13 No holder of a retailer's license issued by the Illinois  
14 Liquor Control Commission shall purchase or receive any  
15 alcoholic liquor, the order for which was solicited or offered  
16 for sale to such retailer by a broker unless the broker is the  
17 holder of a valid broker's license.

18 The broker shall, upon the acceptance by a retailer of the  
19 broker's solicitation of an order or offer to sell or supply or  
20 deliver or have delivered alcoholic liquors, promptly forward  
21 to the Illinois Liquor Control Commission a notification of  
22 said transaction in such form as the Commission may by  
23 regulations prescribe.

24 (ii) A broker's license shall be required of a person  
25 within this State, other than a retail licensee, who, for a fee  
26 or commission, promotes, solicits, or accepts orders for

1 alcoholic liquor, for use or consumption and not for resale, to  
2 be shipped from this State and delivered to residents outside  
3 of this State by an express company, common carrier, or  
4 contract carrier. This Section does not apply to any person who  
5 promotes, solicits, or accepts orders for wine as specifically  
6 authorized in Section 6-29 of this Act.

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

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

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

20 (m) A non-resident dealer's license shall permit such  
21 licensee to ship into and warehouse alcoholic liquor into this  
22 State from any point outside of this State, and to sell such  
23 alcoholic liquor to Illinois licensed foreign importers and  
24 importing distributors and to no one else in this State;  
25 provided that (i) said non-resident dealer shall register with  
26 the Illinois Liquor Control Commission each and every brand of

1 alcoholic liquor which it proposes to sell to Illinois  
2 licensees during the license period, (ii) it shall comply with  
3 all of the provisions of Section 6-9 hereof with respect to  
4 registration of such Illinois licensees as may be granted the  
5 right to sell such brands at wholesale, and (iii) the  
6 non-resident dealer shall comply with the provisions of  
7 Sections 6-5 and 6-6 of this Act to the same extent that these  
8 provisions apply to manufacturers.

9 (n) A brew pub license shall allow the licensee to  
10 manufacture beer only on the premises specified in the license,  
11 to make sales of the beer manufactured on the premises to  
12 importing distributors, distributors, and to non-licensees for  
13 use and consumption, to store the beer upon the premises, and  
14 to sell and offer for sale at retail from the licensed  
15 premises, provided that a brew pub licensee shall not sell for  
16 off-premises consumption more than 50,000 gallons per year.

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

22 (p) An auction liquor license shall allow the licensee to  
23 sell and offer for sale at auction wine and spirits for use or  
24 consumption, or for resale by an Illinois liquor licensee in  
25 accordance with provisions of this Act. An auction liquor  
26 license will be issued to a person and it will permit the

1 auction liquor licensee to hold the auction anywhere in the  
2 State. An auction liquor license must be obtained for each  
3 auction at least 14 days in advance of the auction date.

4 (q) A special use permit license shall allow an Illinois  
5 licensed retailer to transfer a portion of its alcoholic liquor  
6 inventory from its retail licensed premises to the premises  
7 specified in the license hereby created, and to sell or offer  
8 for sale at retail, only in the premises specified in the  
9 license hereby created, the transferred alcoholic liquor for  
10 use or consumption, but not for resale in any form. A special  
11 use permit license may be granted for the following time  
12 periods: one day or less; 2 or more days to a maximum of 15 days  
13 per location in any 12 month period. An applicant for the  
14 special use permit license must also submit with the  
15 application proof satisfactory to the State Commission that the  
16 applicant will provide dram shop liability insurance to the  
17 maximum limits and have local authority approval.

18 (r) A winery shipper's license shall allow a person with a  
19 first-class or second-class wine manufacturer's license, a  
20 first-class or second-class wine-maker's license, or a limited  
21 wine manufacturer's license or who is licensed to make wine  
22 under the laws of another state to ship wine made by that  
23 licensee directly to a resident of this State who is 21 years  
24 of age or older for that resident's personal use and not for  
25 resale. Prior to receiving a winery shipper's license, an  
26 applicant for the license must provide the Commission with a

1 true copy of its current license in any state in which it is  
2 licensed as a manufacturer of wine. An applicant for a winery  
3 shipper's license must also complete an application form that  
4 provides any other information the Commission deems necessary.  
5 The application form shall include an acknowledgement  
6 consenting to the jurisdiction of the Commission, the Illinois  
7 Department of Revenue, and the courts of this State concerning  
8 the enforcement of this Act and any related laws, rules, and  
9 regulations, including authorizing the Department of Revenue  
10 and the Commission to conduct audits for the purpose of  
11 ensuring compliance with this amendatory Act.

12 A winery shipper licensee must pay to the Department of  
13 Revenue the State liquor gallonage tax under Section 8-1 for  
14 all wine that is sold by the licensee and shipped to a person  
15 in this State. For the purposes of Section 8-1, a winery  
16 shipper licensee shall be taxed in the same manner as a  
17 manufacturer of wine. A licensee who is not otherwise required  
18 to register under the Retailers' Occupation Tax Act must  
19 register under the Use Tax Act to collect and remit use tax to  
20 the Department of Revenue for all gallons of wine that are sold  
21 by the licensee and shipped to persons in this State. If a  
22 licensee fails to remit the tax imposed under this Act in  
23 accordance with the provisions of Article VIII of this Act, the  
24 winery shipper's license shall be revoked in accordance with  
25 the provisions of Article VII of this Act. If a licensee fails  
26 to properly register and remit tax under the Use Tax Act or the

1 Retailers' Occupation Tax Act for all wine that is sold by the  
2 winery shipper and shipped to persons in this State, the winery  
3 shipper's license shall be revoked in accordance with the  
4 provisions of Article VII of this Act.

5 A winery shipper licensee must collect, maintain, and  
6 submit to the Commission on a semi-annual basis the total  
7 number of cases per resident of wine shipped to residents of  
8 this State. A winery shipper licensed under this subsection (r)  
9 must comply with the requirements of Section 6-29 of this  
10 amendatory Act.

11 (s) A retail wine shipper's license shall allow a person to  
12 ship wine directly to a resident of this State who is 21 years  
13 of age or older for that resident's personal use and not for  
14 resale. Prior to receiving a retail wine shipper's license, an  
15 applicant for the license must provide the Commission with a  
16 true copy of its current license in any state in which it is  
17 licensed as a wine retailer or wine auction house. An applicant  
18 for a retail wine shipper's license must also complete an  
19 application form that provides any other information that the  
20 Commission deems necessary. The application form shall include  
21 an acknowledgement consenting to the jurisdiction of the  
22 Commission, the Illinois Department of Revenue, and the courts  
23 of this State concerning the enforcement of this Act and any  
24 related laws, rules, and regulations, including authorizing  
25 the Department of Revenue and the Commission to conduct audits  
26 for the purpose of ensuring compliance with this Act.

1       A retail wine shipper licensee must pay to the Department  
2 of Revenue the State sales tax under Section 8-14 for all wine  
3 that is sold by the licensee and shipped to a person in this  
4 State. If a licensee fails to remit the tax imposed under this  
5 Act in accordance with the provisions of Article VIII of this  
6 Act, the retail wine shipper's license shall be revoked in  
7 accordance with the provisions of Article VII of this Act.

8       If a licensee fails to properly register and remit tax  
9 under the Retailers' Occupation Tax Act for all wine that is  
10 sold by the retail wine shipper and shipped to persons in this  
11 State, the retail shipper's license shall be revoked in  
12 accordance with the provisions of Article VII of this Act. A  
13 retail wine shipper licensee must collect, maintain, and submit  
14 to the Commission on a semi-annual basis the total number of  
15 cases per resident of wine shipped to residents of this State.  
16 A retail wine shipper licensed under this subsection (s) must  
17 comply with the requirements of Section 6-36 of this Act.

18       (Source: P.A. 95-331, eff. 8-21-07; 95-634, eff. 6-1-08;  
19 95-769, eff. 7-29-08.)

20       (235 ILCS 5/5-3) (from Ch. 43, par. 118)

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



1           The fee for licenses issued by the State Commission shall  
 2 be as follows:

3           For a manufacturer's license:

4	Class 1. Distiller .....	\$3,600
5	Class 2. Rectifier .....	3,600
6	Class 3. Brewer .....	900
7	Class 4. First-class Wine Manufacturer .....	600
8	Class 5. Second-class	
9	Wine Manufacturer .....	1,200
10	Class 6. First-class wine-maker .....	600
11	Class 7. Second-class wine-maker .....	1200
12	Class 8. Limited Wine Manufacturer .....	120
13	For a Brew Pub License .....	1,050
14	For a caterer retailer's license .....	200
15	For a foreign importer's license .....	25
16	For an importing distributor's license .....	25
17	For a distributor's license .....	270
18	For a non-resident dealer's license	
19	(500,000 gallons or over) .....	270
20	For a non-resident dealer's license	
21	(under 500,000 gallons) .....	90
22	For a wine-maker's premises license .....	100
23	For a winery shipper's license	
24	(under 250,000 gallons) .....	150
25	For a winery shipper's license	
26	(250,000 or over, but under 500,000 gallons)	500

1	For a winery shipper's license	
2	(500,000 gallons or over) .....	1,000
3	For a wine-maker's premises license,	
4	second location .....	350
5	For a wine-maker's premises license,	
6	third location .....	350
7	For a retailer's license .....	500
8	<u>For a retail wine shipper's license .....</u>	<u>500</u>
9	For a special event retailer's license,	
10	(not-for-profit) .....	25
11	For a special use permit license,	
12	one day only .....	50
13	2 days or more .....	100
14	For a railroad license .....	60
15	For a boat license .....	180
16	For an airplane license, times the	
17	licensee's maximum number of aircraft	
18	in flight, serving liquor over the	
19	State at any given time, which either	
20	originate, terminate, or make	
21	an intermediate stop in the State .....	60
22	For a non-beverage user's license:	
23	Class 1 .....	24
24	Class 2 .....	60
25	Class 3 .....	120
26	Class 4 .....	240

1	Class 5 .....	600
2	For a broker's license .....	600
3	For an auction liquor license .....	50

4 Fees collected under this Section shall be paid into the  
5 Dram Shop Fund. On and after July 1, 2003, of the funds  
6 received for a retailer's license, in addition to the first  
7 \$175, an additional \$75 shall be paid into the Dram Shop Fund,  
8 and \$250 shall be paid into the General Revenue Fund. Beginning  
9 June 30, 1990 and on June 30 of each subsequent year through  
10 June 29, 2003, any balance over \$5,000,000 remaining in the  
11 Dram Shop Fund shall be credited to State liquor licensees and  
12 applied against their fees for State liquor licenses for the  
13 following year. The amount credited to each licensee shall be a  
14 proportion of the balance in the Dram Fund that is the same as  
15 the proportion of the license fee paid by the licensee under  
16 this Section for the period in which the balance was  
17 accumulated to the aggregate fees paid by all licensees during  
18 that period.

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

21 (a) Hospitals, sanitariums, or clinics when their use  
22 of alcoholic liquor is exclusively medicinal, mechanical  
23 or scientific.

24 (b) Universities, colleges of learning or schools when  
25 their use of alcoholic liquor is exclusively medicinal,  
26 mechanical or scientific.

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

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

4 (235 ILCS 5/6-36 new)

5 Sec. 6-36. Retail wine shipper's license.

6 (a) The General Assembly declares that it is the intent of  
7 this Section:

8 (1) To authorize direct shipment of wine by an  
9 out-of-state wine retailer on the same basis permitted an  
10 in-state wine retailer pursuant to the authority of the  
11 State under the provisions of Section 2 of the Twenty-First  
12 Amendment to the United States Constitution and in  
13 conformance with the United States Supreme Court decision  
14 decided on May 16, 2005 in Granholm v. Heald.

15 (2) To maintain the State's broad powers granted by  
16 Section 2 of the Twenty-First Amendment to the United  
17 States Constitution to control the importation or sale of  
18 alcoholic liquor and its right to structure its alcoholic  
19 liquor distribution system.

20 (3) To provide that, in the event that a court of  
21 competent jurisdiction declares or finds that this  
22 Section, which is enacted to conform Illinois law to the  
23 United States Supreme Court decision, is invalid or  
24 unconstitutional, the Illinois General Assembly at its  
25 earliest general session shall conduct hearings and study

1 methods to conform to any directive or order of the court  
2 consistent with the temperance and revenue collection  
3 purposes of this Act.

4 (b) Notwithstanding any other provision of law, a retail  
5 wine shipper licensee may ship wine, for personal use and not  
6 for resale, to any resident of this State who is 21 years of  
7 age or older.

8 (c) Notwithstanding any other provision of law, sale and  
9 shipment by a retail wine shipper licensee pursuant to this  
10 Section shall be deemed to constitute a sale in this State for  
11 the purposes of the Retailers' Occupation Tax Act.

12 (d) The shipping container of any wine shipped under this  
13 Section shall be clearly labeled with the following words:  
14 "CONTAINS ALCOHOL. SIGNATURE OF A PERSON 21 YEARS OF AGE OR  
15 OLDER REQUIRED FOR DELIVERY. PROOF OF AGE AND IDENTITY MUST BE  
16 SHOWN BEFORE DELIVERY." This warning must be prominently  
17 displayed on the packaging. A licensee shall require the  
18 transporter or common carrier that delivers the wine to obtain  
19 the signature of a person 21 years of age or older at the  
20 delivery address at the time of delivery. At the expense of the  
21 licensee, the licensee shall receive a delivery confirmation  
22 from the express company, common carrier, or contract carrier  
23 indicating the location of the delivery, time of delivery, and  
24 the name and signature of the individual 21 years of age or  
25 older who accepts delivery. The Commission shall design and  
26 create a label or approve a label that must be affixed to the

1 shipping container by the licensee.

2 (e) Any person manufacturing, distributing, or selling  
3 alcoholic liquor who knowingly ships or transports or causes  
4 the shipping or transportation of any alcoholic liquor from a  
5 point outside this State to a person in this State who does not  
6 hold a manufacturer's, distributor's, importing distributor's,  
7 non-resident dealer's, winery shipper's license, or retail  
8 wine shipper's license issued by the Liquor Control Commission,  
9 other than a shipment of sacramental wine to a bona fide  
10 religious organization, a shipment authorized by Section 6-29,  
11 subparagraph (17) of Section 3-12, or any other shipment  
12 authorized by this Act, is in violation of this Act.

13 The Commission, upon determining, after investigation,  
14 that a person has violated this Section, shall give notice to  
15 the person by certified mail to cease and desist all shipments  
16 of alcoholic liquor into this State and to withdraw from this  
17 State within 5 working days after receipt of the notice all  
18 shipments of alcoholic liquor then in transit.

19 Whenever the Commission has reason to believe that a person  
20 has failed to comply with the Commission notice under this  
21 Section, it shall notify the Department of Revenue and file a  
22 complaint with the State's Attorney of the county where the  
23 alcoholic liquor was delivered or with appropriate law  
24 enforcement officials.

25 Failure to comply with the notice issued by the Commission  
26 under this Section constitutes a business offense for which the

1 person shall be fined not more than \$1,000 for a first offense,  
2 not more than \$5,000 for a second offense, and not more than  
3 \$10,000 for a third or subsequent offense. Each shipment of  
4 alcoholic liquor delivered in violation of the cease and desist  
5 notice shall constitute a separate offense.

6 (f) No broker within this State shall solicit consumers to  
7 engage in direct wine shipments under this Section.

8 (g) It is not the intent of this Section to impair the  
9 distribution of wine through distributors or importing  
10 distributors, but only to permit shipments of wine for personal  
11 use.

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.