



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 728

2 AMENDMENT NO. _____. Amend Senate Bill 728 by replacing
3 everything after the enacting clause with the following:

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

6 (235 ILCS 5/3-12)

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

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

10 (1) To receive applications and to issue licenses to
11 manufacturers, foreign importers, importing distributors,
12 distributors, non-resident dealers, on premise consumption
13 retailers, off premise sale retailers, special event
14 retailer licensees, special use permit licenses, auction
15 liquor licenses, brew pubs, caterer retailers,
16 non-beverage users, railroads, including owners and

1 lessees of sleeping, dining and cafe cars, airplanes,
2 boats, brokers, and wine maker's premises licensees in
3 accordance with the provisions of this Act, and to suspend
4 or revoke such licenses upon the State commission's
5 determination, upon notice after hearing, that a licensee
6 has violated any provision of this Act or any rule or
7 regulation issued pursuant thereto and in effect for 30
8 days prior to such violation. Except in the case of an
9 action taken pursuant to a violation of Section 6-3, 6-5,
10 or 6-9, any action by the State Commission to suspend or
11 revoke a licensee's license may be limited to the license
12 for the specific premises where the violation occurred.

13 In lieu of suspending or revoking a license, the
14 commission may impose a fine, upon the State commission's
15 determination and notice after hearing, that a licensee has
16 violated any provision of this Act or any rule or
17 regulation issued pursuant thereto and in effect for 30
18 days prior to such violation.

19 For the purpose of this paragraph (1), when determining
20 multiple violations for the sale of alcohol to a person
21 under the age of 21, a second or subsequent violation for
22 the sale of alcohol to a person under the age of 21 shall
23 only be considered if it was committed within 5 years after
24 the date when a prior violation for the sale of alcohol to
25 a person under the age of 21 was committed.

26 The fine imposed under this paragraph may not exceed

1 \$500 for each violation. Each day that the activity, which
2 gave rise to the original fine, continues is a separate
3 violation. The maximum fine that may be levied against any
4 licensee, for the period of the license, shall not exceed
5 \$20,000. The maximum penalty that may be imposed on a
6 licensee for selling a bottle of alcoholic liquor with a
7 foreign object in it or serving from a bottle of alcoholic
8 liquor with a foreign object in it shall be the destruction
9 of that bottle of alcoholic liquor for the first 10 bottles
10 so sold or served from by the licensee. For the eleventh
11 bottle of alcoholic liquor and for each third bottle
12 thereafter sold or served from by the licensee with a
13 foreign object in it, the maximum penalty that may be
14 imposed on the licensee is the destruction of the bottle of
15 alcoholic liquor and a fine of up to \$50.

16 (2) To adopt such rules and regulations consistent with
17 the provisions of this Act which shall be necessary to
18 carry on its functions and duties to the end that the
19 health, safety and welfare of the People of the State of
20 Illinois shall be protected and temperance in the
21 consumption of alcoholic liquors shall be fostered and
22 promoted and to distribute copies of such rules and
23 regulations to all licensees affected thereby.

24 (3) To call upon other administrative departments of
25 the State, county and municipal governments, county and
26 city police departments and upon prosecuting officers for

1 such information and assistance as it deems necessary in
2 the performance of its duties.

3 (4) To recommend to local commissioners rules and
4 regulations, not inconsistent with the law, for the
5 distribution and sale of alcoholic liquors throughout the
6 State.

7 (5) To inspect, or cause to be inspected, any premises
8 in this State where alcoholic liquors are manufactured,
9 distributed, warehoused, or sold. Nothing in this Act
10 authorizes an agent of the Commission to inspect private
11 areas within the premises without reasonable suspicion or a
12 warrant during an inspection. "Private areas" include, but
13 are not limited to, safes, personal property, and closed
14 desks.

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

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

1 (5.3) To receive complaints from licensees, local
2 officials, law enforcement agencies, organizations, and
3 persons stating that any licensee has been or is violating
4 any provision of this Act or the rules and regulations
5 issued pursuant to this Act. Such complaints shall be in
6 writing, signed and sworn to by the person making the
7 complaint, and shall state with specificity the facts in
8 relation to the alleged violation. If the Commission has
9 reasonable grounds to believe that the complaint
10 substantially alleges a violation of this Act or rules and
11 regulations adopted pursuant to this Act, it shall conduct
12 an investigation. If, after conducting an investigation,
13 the Commission is satisfied that the alleged violation did
14 occur, it shall proceed with disciplinary action against
15 the licensee as provided in this Act.

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

22 (7) The commission shall establish uniform systems of
23 accounts to be kept by all retail licensees having more
24 than 4 employees, and for this purpose the commission may
25 classify all retail licensees having more than 4 employees
26 and establish a uniform system of accounts for each class

1 and prescribe the manner in which such accounts shall be
2 kept. The commission may also prescribe the forms of
3 accounts to be kept by all retail licensees having more
4 than 4 employees, including but not limited to accounts of
5 earnings and expenses and any distribution, payment, or
6 other distribution of earnings or assets, and any other
7 forms, records and memoranda which in the judgment of the
8 commission may be necessary or appropriate to carry out any
9 of the provisions of this Act, including but not limited to
10 such forms, records and memoranda as will readily and
11 accurately disclose at all times the beneficial ownership
12 of such retail licensed business. The accounts, forms,
13 records and memoranda shall be available at all reasonable
14 times for inspection by authorized representatives of the
15 State commission or by any local liquor control
16 commissioner or his or her authorized representative. The
17 commission, may, from time to time, alter, amend or repeal,
18 in whole or in part, any uniform system of accounts, or the
19 form and manner of keeping accounts.

20 (8) In the conduct of any hearing authorized to be held
21 by the commission, to appoint, at the commission's
22 discretion, hearing officers to conduct hearings involving
23 complex issues or issues that will require a protracted
24 period of time to resolve, to examine, or cause to be
25 examined, under oath, any licensee, and to examine or cause
26 to be examined the books and records of such licensee; to

1 hear testimony and take proof material for its information
2 in the discharge of its duties hereunder; to administer or
3 cause to be administered oaths; for any such purpose to
4 issue subpoena or subpoenas to require the attendance of
5 witnesses and the production of books, which shall be
6 effective in any part of this State, and to adopt rules to
7 implement its powers under this paragraph (8).

8 Any Circuit Court may by order duly entered, require
9 the attendance of witnesses and the production of relevant
10 books subpoenaed by the State commission and the court may
11 compel obedience to its order by proceedings for contempt.

12 (9) To investigate the administration of laws in
13 relation to alcoholic liquors in this and other states and
14 any foreign countries, and to recommend from time to time
15 to the Governor and through him or her to the legislature
16 of this State, such amendments to this Act, if any, as it
17 may think desirable and as will serve to further the
18 general broad purposes contained in Section 1-2 hereof.

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

24 (11) To develop industry educational programs related
25 to responsible serving and selling, particularly in the
26 areas of overserving consumers and illegal underage

1 purchasing and consumption of alcoholic beverages.

2 (11.1) To license persons providing education and
3 training to alcohol beverage sellers and servers under the
4 Beverage Alcohol Sellers and Servers Education and
5 Training (BASSET) programs and to develop and administer a
6 public awareness program in Illinois to reduce or eliminate
7 the illegal purchase and consumption of alcoholic beverage
8 products by persons under the age of 21. Application for a
9 license shall be made on forms provided by the State
10 Commission.

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

13 (13) On or before January 15, 1994, the Commission
14 shall issue a written report to the Governor and General
15 Assembly that is to be based on a comprehensive study of
16 the impact on and implications for the State of Illinois of
17 Section 1926 of the Federal ADAMHA Reorganization Act of
18 1992 (Public Law 102-321). This study shall address the
19 extent to which Illinois currently complies with the
20 provisions of P.L. 102-321 and the rules promulgated
21 pursuant thereto.

22 As part of its report, the Commission shall provide the
23 following essential information:

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

26 (ii) the number of reported citations and

1 successful convictions, categorized by type and
2 location of retail distributor, for violation of the
3 Prevention of Tobacco Use by Minors and Sale and
4 Distribution of Tobacco Products Act and the Smokeless
5 Tobacco Limitation Act;

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

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

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

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

24 The Commission may contract with the Food and Drug
25 Administration of the U.S. Department of Health and Human
26 Services to conduct unannounced investigations of Illinois

1 tobacco vendors to determine compliance with federal laws
2 relating to the illegal sale of cigarettes and smokeless
3 tobacco products to persons under the age of 18.

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

13 (A) The amount of State excise and sales tax
14 revenues generated.

15 (B) The amount of licensing fees received.

16 (C) The number of cases of wine shipped from inside
17 and outside of this State directly to residents of this
18 State.

19 (D) The number of alcohol compliance operations
20 conducted.

21 (E) The number of winery shipper's licenses
22 issued.

23 (F) The number of each of the following: reported
24 violations; cease and desist notices issued by the
25 Commission; notices of violations issued by the
26 Commission and to the Department of Revenue; and

1 notices and complaints of violations to law
2 enforcement officials, including, without limitation,
3 the Illinois Attorney General and the U.S. Department
4 of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

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

13 (16) The Commission shall, in addition to notifying any
14 appropriate law enforcement agency, submit notices of
15 complaints or violations of Sections 6-29 and 6-29.1 by
16 persons who do not hold a winery shipper's license under
17 this amendatory Act to the Illinois Attorney General and to
18 the U.S. Department of Treasury's Alcohol and Tobacco Tax
19 and Trade Bureau.

20 (17) (A) A person licensed to make wine under the laws
21 of another state who has a winery shipper's license under
22 this amendatory Act and annually produces less than 25,000
23 gallons of wine or a person who has a first-class or
24 second-class wine manufacturer's license, a first-class or
25 second-class wine-maker's license, or a limited wine
26 manufacturer's license under this Act and annually

1 produces less than 25,000 gallons of wine may make
2 application to the Commission for a self-distribution
3 exemption to allow the sale of not more than 5,000 gallons
4 of the exemption holder's wine to retail licensees per
5 year.

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

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

25 (D) A self-distribution exemption holder shall
26 annually certify to the Commission its production of

1 wine in the previous 12 months and its anticipated
2 production and sales for the next 12 months. The
3 Commission may fine, suspend, or revoke a
4 self-distribution exemption after a hearing if it
5 finds that the exemption holder has made a material
6 misrepresentation in its application, violated a
7 revenue or liquor law of Illinois, exceeded production
8 of 25,000 gallons of wine in any calendar year, or
9 become part of an affiliated group producing more than
10 25,000 gallons of wine or any other alcoholic liquor.

11 (E) Except in hearings for violations of this Act
12 or amendatory Act or a bona fide investigation by duly
13 sworn law enforcement officials, the Commission, or
14 its agents, the Commission shall maintain the
15 production and sales information of a
16 self-distribution exemption holder as confidential and
17 shall not release such information to any person.

18 (F) The Commission shall issue regulations
19 governing self-distribution exemptions consistent with
20 this Section and this Act.

21 (G) Nothing in this subsection (17) shall prohibit
22 a self-distribution exemption holder from entering
23 into or simultaneously having a distribution agreement
24 with a licensed Illinois distributor.

25 (H) It is the intent of this subsection (17) to
26 promote and continue orderly markets. The General

1 Assembly finds that in order to preserve Illinois'
2 regulatory distribution system it is necessary to
3 create an exception for smaller makers of wine as their
4 wines are frequently adjusted in varietals, mixes,
5 vintages, and taste to find and create market niches
6 sometimes too small for distributor or importing
7 distributor business strategies. Limited
8 self-distribution rights will afford and allow smaller
9 makers of wine access to the marketplace in order to
10 develop a customer base without impairing the
11 integrity of the 3-tier system.

12 (18) (A) A craft brewer licensee, who must also be
13 either a licensed brewer or licensed non-resident dealer
14 and annually manufacture less than 930,000 gallons of beer,
15 may make application to the Commission for a
16 self-distribution exemption to allow the sale of not more
17 than 232,500 gallons of the exemption holder's beer to
18 retail licensees per year.

19 (B) In the application, which shall be sworn under
20 penalty of perjury, the craft brewer licensee shall
21 state (1) the date it was established; (2) its volume
22 of beer manufactured and sold for each year since its
23 establishment; (3) its efforts to establish
24 distributor relationships; (4) that a
25 self-distribution exemption is necessary to facilitate
26 the marketing of its beer; and (5) that it will comply

1 with the alcoholic beverage and revenue laws of the
2 United States, this State, and any other state where it
3 is licensed.

4 (C) Any application submitted shall be posted on
5 the Commission's website at least 45 days prior to
6 action by the Commission. The Commission shall approve
7 the application for a self-distribution exemption if
8 the craft brewer licensee: (1) is in compliance with
9 the State, revenue, and alcoholic beverage laws; (2) is
10 not a member of any affiliated group that manufacturers
11 more than 930,000 gallons of beer per annum or produces
12 any other alcoholic beverages; (3) shall not annually
13 manufacture for sale more than 930,000 gallons of beer;
14 and (4) shall not annually sell more than 232,500
15 gallons of its beer to retail licensees.

16 (D) A self-distribution exemption holder shall
17 annually certify to the Commission its manufacture of
18 beer during the previous 12 months and its anticipated
19 manufacture and sales of beer for the next 12 months.
20 The Commission may fine, suspend, or revoke a
21 self-distribution exemption after a hearing if it
22 finds that the exemption holder has made a material
23 misrepresentation in its application, violated a
24 revenue or alcoholic beverage law of Illinois,
25 exceeded the manufacture of 930,000 gallons of beer in
26 any calendar year or became part of an affiliated group

1 manufacturing more than 930,000 gallons of beer or any
2 other alcoholic beverage.

3 (E) The Commission shall issue rules and
4 regulations governing self-distribution exemptions
5 consistent with this Act.

6 (F) Nothing in this paragraph (18) shall prohibit a
7 self-distribution exemption holder from entering into
8 or simultaneously having a distribution agreement with
9 a licensed Illinois importing distributor or a
10 distributor. If a self-distribution exemption holder
11 enters into a distribution agreement and has assigned
12 distribution rights to an importing distributor or
13 distributor, then the self-distribution exemption
14 holder's distribution rights in the assigned
15 territories shall cease in a reasonable time not to
16 exceed 60 days.

17 (G) It is the intent of this paragraph (18) to
18 promote and continue orderly markets. The General
19 Assembly finds that in order to preserve Illinois'
20 regulatory distribution system, it is necessary to
21 create an exception for smaller manufacturers in order
22 to afford and allow such smaller manufacturers of beer
23 access to the marketplace in order to develop a
24 customer base without impairing the integrity of the
25 3-tier system.

26 (b) On or before April 30, 1999, the Commission shall

1 present a written report to the Governor and the General
2 Assembly that shall be based on a study of the impact of this
3 amendatory Act of 1998 on the business of soliciting, selling,
4 and shipping alcoholic liquor from outside of this State
5 directly to residents of this State.

6 As part of its report, the Commission shall provide the
7 following information:

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

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

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

17 (Source: P.A. 97-5, eff. 6-1-11; 98-401, eff. 8-16-13.)".