

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 adding Sections 1-3.40, 1-3.41, and 6-6.3 as follows:

6 (235 ILCS 5/1-3.40 new)

7 Sec. 1-3.40. Manufacturer class license holder.

8 "Manufacturer class license holder" means any holder of a
9 Manufacturer's license as provided in Section 5-1 of this Act.

10 The Manufacturer's licenses are: a Class 1. Distiller, a Class
11 2. Rectifier, a Class 3. Brewer, a Class 4. First Class Wine
12 Manufacturer, a Class 5. Second Class Wine Manufacturer, a
13 Class 6. First Class Winemaker, a Class 7. Second Class
14 Winemaker, a Class 8. Limited Wine Manufacturer, a Class 9.
15 Craft Distiller, and a Class 10. Craft Brewer and any future
16 Manufacturer's licenses established by law.

17 (235 ILCS 5/1-3.41 new)

18 Sec. 1-3.41. Non-alcoholic merchandise. "Non-alcoholic
19 merchandise" means any good or commodity that contains less
20 than 0.5 percent alcohol by volume. For purposes of this Act,
21 "non-alcoholic merchandise" does not include trade fixtures,
22 equipment, or furnishings that are used or intended for the

1 limited purpose of storing, servicing, displaying,
2 advertising, furnishing, selling, or aiding in the sale of
3 alcoholic liquors.

4 (235 ILCS 5/6-6.3 new)

5 Sec. 6-6.3. Non-alcoholic merchandise.

6 (a) Nothing in this Act shall authorize the Illinois Liquor
7 Control Commission to regulate or exercise jurisdiction over
8 any action, transaction, and business of manufacturers,
9 distributors, or retailers engaged in any transaction
10 involving the furnishing, selling, or offering for sale of
11 non-alcoholic merchandise by manufacturers, distributors, or
12 retailers, unless the transaction involves expressed or
13 implied agreements or understandings prohibited by this Act.

14 (b) Non-alcoholic merchandise may be sold by a manufacturer
15 class license holder, non-resident dealer, foreign importer,
16 importing distributor, or distributor to a retail licensee if:

17 (1) the manufacturer class license holder,
18 non-resident dealer, foreign importer, importing
19 distributor, or distributor is also in business as a bona
20 fide producer or vendor of other merchandise;

21 (2) the merchandise is sold at its fair market value;

22 (3) the non-alcoholic merchandise is not sold in
23 combination with alcoholic liquor or conditioned on the
24 sale of alcoholic liquor;

25 (4) the manufacturer class license holder's,

1 non-resident dealer's, foreign importer's, importing
2 distributor's, or distributor's acquisition or production
3 costs of the non-alcoholic merchandise appear on the
4 manufacturer class license holder's, non-resident
5 dealer's, foreign importer's, importing distributor's, or
6 distributor's purchase invoices or other records;

7 (5) the individual selling prices of the non-alcoholic
8 merchandise and alcoholic liquor sold in a single
9 transaction can be determined from commercial documents
10 covering the sales transaction if non-alcoholic
11 merchandise is sold in the same transaction as alcoholic
12 liquor; and

13 (6) the price is collected by the manufacturer class
14 license holder, non-resident dealer, foreign importer, or
15 distributor within 30 days of the date of the sale, unless
16 other terms are established in writing between the parties.

17 (c) The State Commission may not prohibit the sale of
18 non-alcoholic merchandise if it is sold in the manner in which
19 the non-alcoholic merchandise is sold by a manufacturer or
20 distributor that is not licensed by the State Commission;
21 provided, however, that all invoices for non-alcoholic
22 merchandise sold by a manufacturer class license holder,
23 non-resident dealer, foreign importer, importing distributor,
24 or distributor that is also in business as a bona fide producer
25 or vendor of other merchandise must be in compliance with the
26 books and records requirements of 11 Ill. Adm. Code 100.130. If

1 the non-alcoholic merchandise is sold on the same invoice as an
2 alcoholic liquor product, the 30-day merchandising credit
3 provisions of Section 6-5 of this Act shall apply to the entire
4 transaction, including the non-alcoholic merchandise.

5 (d) Except as provided in subsection (f), a manufacturer
6 class license holder, non-resident dealer, foreign importer,
7 importing distributor, or distributor that is also in business
8 as a bona fide producer or vendor of non-alcoholic merchandise
9 shall not condition the sale of its alcoholic liquor on the
10 sale of its non-alcoholic merchandise and shall not combine the
11 sale of its alcoholic liquor with the sale of its non-alcoholic
12 merchandise. A manufacturer class license holder, non-resident
13 dealer, foreign importer, importing distributor, or
14 distributor that is also in business as a bona fide producer or
15 vendor of non-alcoholic merchandise may sell, market, and
16 promote non-alcoholic merchandise in the same manner in which
17 the non-alcoholic merchandise is sold, marketed, or promoted by
18 a manufacturer or distributor not licensed by the State
19 Commission.

20 (e) Notwithstanding the prohibited furnishing or providing
21 of fixtures, equipment, and furnishings to retailers as
22 contained in Section 6-6 of this Act, the act of a manufacturer
23 class license holder, non-resident dealer, foreign importer,
24 importing distributor, or distributor furnishing or providing
25 retailers with fixtures, equipment, or furnishings for the
26 limited purpose of storing, servicing, displaying,

1 advertising, furnishing, selling, or aiding in the sale of
2 non-alcoholic merchandise is permitted, only to the extent
3 allowed by this Section, and such fixtures, equipment, and
4 furnishings shall not be used by the retail licensee to store,
5 service, display, advertise, furnish, sell, or aid in the sale
6 of alcoholic liquors. All such fixtures, equipment, or
7 furnishings shall be identified by the retail licensee as being
8 furnished by a manufacturer class license holder, non-resident
9 dealer, foreign importer, importing distributor, or
10 distributor licensed by the State Commission and, if purchased
11 by the retail licensee and sold on the same invoice as
12 alcoholic liquor products, the price must be collected by the
13 manufacturer class license holder, non-resident dealer,
14 foreign importer, importing distributor, or distributor
15 selling the same within 30 days of the date of sale.

16 (f) Notwithstanding any provision of this Act to the
17 contrary, a manufacturer class license holder, non-resident
18 dealer, foreign importer, importing distributor, or
19 distributor may package and distribute alcoholic liquor in
20 combination with other non-alcoholic merchandise products if
21 the alcoholic liquor and non-alcoholic merchandise was
22 originally packaged together for ultimate sale to consumers by
23 the manufacturer or agent of the manufacturer as originally
24 packaged by the manufacturer or agent of the manufacturer for
25 ultimate sale to consumers.

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.