

AN ACT concerning tobacco.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Liquor Control Act of 1934 is amended by changing Sections 3-12 and 6-16.1 as follows:

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

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

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

(1) To receive applications and to issue licenses to manufacturers, foreign importers, importing distributors, distributors, non-resident dealers, on premise consumption retailers, off premise sale retailers, special event retailer licensees, special use permit licenses, auction liquor licenses, brew pubs, caterer retailers, non-beverage users, railroads, including owners and lessees of sleeping, dining and cafe cars, airplanes, boats, brokers, and wine maker's premises licensees in accordance with the provisions of this Act, and to suspend or revoke such licenses upon the State commission's determination, upon notice after hearing, that a licensee has violated any provision of this Act or any rule or regulation issued pursuant thereto and in effect for 30

days prior to such violation. Except in the case of an action taken pursuant to a violation of Section 6-3, 6-5, or 6-9, any action by the State Commission to suspend or revoke a licensee's license may be limited to the license for the specific premises where the violation occurred.

In lieu of suspending or revoking a license, the commission may impose a fine, upon the State commission's determination and notice after hearing, that a licensee has violated any provision of this Act or any rule or regulation issued pursuant thereto and in effect for 30 days prior to such violation. The fine imposed under this paragraph may not exceed \$500 for each violation. Each day that the activity, which gave rise to the original fine, continues is a separate violation. The maximum fine that may be levied against any licensee, for the period of the license, shall not exceed \$20,000. The maximum penalty that may be imposed on a licensee for selling a bottle of alcoholic liquor with a foreign object in it or serving from a bottle of alcoholic liquor with a foreign object in it shall be the destruction of that bottle of alcoholic liquor for the first 10 bottles so sold or served from by the licensee. For the eleventh bottle of alcoholic liquor and for each third bottle thereafter sold or served from by the licensee with a foreign object in it, the maximum penalty that may be imposed on the licensee is the destruction of the bottle of alcoholic liquor and a fine of

up to \$50.

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

(3) To call upon other administrative departments of the State, county and municipal governments, county and city police departments and upon prosecuting officers for such information and assistance as it deems necessary in the performance of its duties.

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

(5) To inspect, or cause to be inspected, any premises in this State where alcoholic liquors are manufactured, distributed, warehoused, or sold.

(5.1) Upon receipt of a complaint or upon having knowledge that any person is engaged in business as a manufacturer, importing distributor, distributor, or retailer without a license or valid license, to notify the local liquor authority, file a complaint with the State's

Attorney's Office of the county where the incident occurred, or initiate an investigation with the appropriate law enforcement officials.

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

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

(6) To hear and determine appeals from orders of a local commission in accordance with the provisions of this Act, as hereinafter set forth. Hearings under this subsection shall be held in Springfield or Chicago, at

whichever location is the more convenient for the majority of persons who are parties to the hearing.

(7) The commission shall establish uniform systems of accounts to be kept by all retail licensees having more than 4 employees, and for this purpose the commission may classify all retail licensees having more than 4 employees and establish a uniform system of accounts for each class and prescribe the manner in which such accounts shall be kept. The commission may also prescribe the forms of accounts to be kept by all retail licensees having more than 4 employees, including but not limited to accounts of earnings and expenses and any distribution, payment, or other distribution of earnings or assets, and any other forms, records and memoranda which in the judgment of the commission may be necessary or appropriate to carry out any of the provisions of this Act, including but not limited to such forms, records and memoranda as will readily and accurately disclose at all times the beneficial ownership of such retail licensed business. The accounts, forms, records and memoranda shall be available at all reasonable times for inspection by authorized representatives of the State commission or by any local liquor control commissioner or his or her authorized representative. The commission, may, from time to time, alter, amend or repeal, in whole or in part, any uniform system of accounts, or the form and manner of keeping accounts.

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

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

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

(10) To adopt such rules and regulations consistent

with the provisions of this Act which shall be necessary for the control, sale or disposition of alcoholic liquor damaged as a result of an accident, wreck, flood, fire or other similar occurrence.

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

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

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

(13) On or before January 15, 1994, the Commission shall issue a written report to the Governor and General Assembly that is to be based on a comprehensive study of the impact on and implications for the State of Illinois of Section 1926 of the Federal ADAMHA Reorganization Act of 1992 (Public Law 102-321). This study shall address the extent to which Illinois currently complies with the

provisions of P.L. 102-321 and the rules promulgated pursuant thereto.

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

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

(ii) the number of reported citations and successful convictions, categorized by type and location of retail distributor, for violation of the Sale and Distribution of Tobacco Products ~~to Minors~~ Act and the Smokeless Tobacco Limitation Act;

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

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

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

The Commission shall consult with the Department of Public Health, the Department of Human Services, the



Illinois State Police and any other executive branch agency, and private organizations that may have information relevant to this report.

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

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

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

(B) The amount of licensing fees received.

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

(D) The number of alcohol compliance operations conducted.

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

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

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

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

(17) (A) A person licensed to make wine under the laws

of another state who has a winery shipper's license under this amendatory Act and annually produces less than 25,000 gallons of wine or a person who has a first-class or second-class wine manufacturer's license, a first-class or second-class wine-maker's license, or a limited wine manufacturer's license under this Act and annually produces less than 25,000 gallons of wine may make application to the Commission for a self-distribution exemption to allow the sale of not more than 5,000 gallons of the exemption holder's wine to retail licensees per year.

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

(C) The Commission shall approve the application for a self-distribution exemption if such person: (1) is in compliance with State revenue and liquor laws; (2) is not a member of any affiliated group that produces more than 25,000 gallons of wine per annum or

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

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

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

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

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

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

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

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

(i) the amount of State excise and sales tax revenues

generated as a result of this amendatory Act of 1998;

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

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

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

(235 ILCS 5/6-16.1)

Sec. 6-16.1. Enforcement actions.

(a) A licensee or an officer, associate, member, representative, agent, or employee of a licensee may sell, give, or deliver alcoholic liquor to a person under the age of 21 years or authorize the sale, gift, or delivery of alcoholic liquor to a person under the age of 21 years pursuant to a plan or action to investigate, patrol, or otherwise conduct a "sting operation" or enforcement action against a person employed by the licensee or on any licensed premises if the licensee or officer, associate, member, representative, agent, or employee of the licensee provides written notice, at least 14 days before the "sting operation" or enforcement action, unless governing body of the municipality or county having jurisdiction sets a shorter period by ordinance, to the law enforcement agency having jurisdiction, the local liquor

control commissioner, or both. Notice provided under this Section shall be valid for a "sting operation" or enforcement action conducted within 60 days of the provision of that notice, unless the governing body of the municipality or county having jurisdiction sets a shorter period by ordinance.

(b) A local liquor control commission or unit of local government that conducts alcohol and tobacco compliance operations shall establish a policy and standards for alcohol and tobacco compliance operations to investigate whether a licensee is furnishing (1) alcoholic liquor to persons under 21 years of age in violation of this Act or (2) tobacco to persons in violation of the Sale and Distribution of Tobacco Products to Minors Act.

(c) The Illinois Law Enforcement Training Standards Board shall develop a model policy and guidelines for the operation of alcohol and tobacco compliance checks by local law enforcement officers. The Illinois Law Enforcement Training Standards Board shall also require the supervising officers of such compliance checks to have met a minimum training standard as determined by the Board. The Board shall have the right to waive any training based on current written policies and procedures for alcohol and tobacco compliance check operations and in-service training already administered by the local law enforcement agency, department, or office.

(d) The provisions of subsections (b) and (c) do not apply to a home rule unit with more than 2,000,000 inhabitants.

(e) A home rule unit, other than a home rule unit with more than 2,000,000 inhabitants, may not regulate enforcement actions in a manner inconsistent with the regulation of enforcement actions under this Section. This subsection (e) is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(f) A licensee who is the subject of an enforcement action or "sting operation" under this Section and is found, pursuant to the enforcement action, to be in compliance with this Act shall be notified by the enforcement agency action that no violation was found within 30 days after the finding.

(Source: P.A. 92-503, eff. 1-1-02; 93-1057, eff. 12-2-04.)

Section 10. The Sale of Tobacco to Minors Act is amended by changing the title of the Act and Sections 0.01 and 1 as follows:

(720 ILCS 675/Act title)

An Act to prohibit minors from buying or selling tobacco in any of its forms, to prohibit selling, giving or furnishing tobacco, in any of its forms, to minors, and to prohibit the distribution of tobacco samples and providing penalties therefor.

(720 ILCS 675/0.01) (from Ch. 23, par. 2356.9)



Sec. 0.01. Short title. This Act may be cited as the Sale and Distribution of Tobacco Products ~~to Minors~~ Act.

(Source: P.A. 86-1324.)

(720 ILCS 675/1) (from Ch. 23, par. 2357)

Sec. 1. Prohibition on sale of tobacco to minors; prohibition on the distribution of tobacco samples to any person; use of identification cards; vending machines; lunch wagons; out-of-package sales.

(a) No minor under 18 years of age shall buy any tobacco product ~~cigar, cigarette, smokeless tobacco or tobacco in any of its forms~~. No person shall sell, buy for, distribute samples of or furnish any tobacco product ~~cigar, cigarette, smokeless tobacco or tobacco in any of its forms~~, to any minor under 18 years of age.

(a-5) No minor under 16 years of age may sell any tobacco product ~~cigar, cigarette, smokeless tobacco, or tobacco in any of its forms~~ at a retail establishment selling tobacco products. This subsection does not apply to a sales clerk in a family-owned business which can prove that the sales clerk is in fact a son or daughter of the owner.

(a-6) No minor under 18 years of age in the furtherance or facilitation of obtaining any tobacco product ~~cigar, cigarette, smokeless tobacco, or tobacco in any of its forms~~ shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

(a-7) A person shall not distribute without charge samples of any tobacco product to any other person, regardless of age:

(1) within a retail establishment selling tobacco products, unless the retailer has verified the purchaser's age with a government issued identification;

(2) from a lunch wagon; or

(3) on a public way as a promotion or advertisement of a tobacco manufacturer or tobacco product.

This subsection (a-7) does not apply to the distribution of a tobacco product sample in any adult-only facility.

For the purpose of this Section:7

"Adult-only facility means a facility or restricted area (whether open-air or enclosed) where the operator ensures or has a reasonable basis to believe (such as by checking identification as required under State law, or by checking the identification of any person appearing to be under the age of 27) that no person under legal age is present. A facility or restricted area need not be permanently restricted to persons under legal age to constitute an adult-only facility, provided that the operator ensures or has a reasonable basis to believe that no person under legal age is present during the event or time period in question.

"Lunch wagon" means a mobile vehicle designed and constructed to transport food and from which food is sold to the general public.

"Smokeless ~~"smokeless~~ tobacco" means any tobacco products that are suitable for dipping or chewing.

"Tobacco product" means any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms.

(b) Tobacco products listed above may be sold through a vending machine only if such tobacco products are not placed together with any non-tobacco product, other than matches, in the vending machine and the vending machine is in any of the following locations:

(1) (Blank).

(2) Places to which minors under 18 years of age are not permitted access.

(3) Places where alcoholic beverages are sold and consumed on the premises and vending machine operation is under the direct supervision of the owner or manager.

(4) (Blank).

(5) Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

(c) (Blank) ~~The sale or distribution at no charge of cigarettes from a lunch wagon engaging in any sales activity within 1,000 feet of any public or private elementary or secondary school grounds is prohibited.~~

~~For the purpose of this Section, "lunch wagon" means a mobile vehicle designed and constructed to transport food and~~

~~from which food is sold to the general public.~~

(d) The sale or distribution by any person of a tobacco product listed above, including but not limited to a single or loose cigarette, that is not contained within a sealed container, pack, or package as provided by the manufacturer, which container, pack, or package bears the health warning required by federal law, is prohibited.

(Source: P.A. 95-905, eff. 1-1-09.)

Section 15. The Display of Tobacco Products Act is amended by changing Section 15 as follows:

(720 ILCS 677/15)

Sec. 15. Vending machines. This Act does not prohibit the sale of tobacco products from vending machines if the location of the vending machines are in compliance with the provisions of Section 1 of the Sale and Distribution of Tobacco Products ~~to Minors~~ Act.

(Source: P.A. 93-886, eff. 1-1-05.)