

1 AN ACT in relation to alcoholic liquor.

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

4 Section 5. The Liquor Control Act of 1934 is amended by
5 changing Sections 3-12, 4-4, and 6-16.1 as follows:

6 (235 ILCS 5/3-12) (from Ch. 43, par. 108)

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

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

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

25 In lieu of suspending or revoking a license, the
26 commission may impose a fine, upon the State commission's
27 determination and notice after hearing, that a licensee
28 has violated any provision of this Act or any rule or
29 regulation issued pursuant thereto and in effect for 30
30 days prior to such violation. The fine imposed under
31 this paragraph may not exceed \$500 for each violation.

1 Each day that the activity, which gave rise to the
2 original fine, continues is a separate violation. The
3 maximum fine that may be levied against any licensee, for
4 the period of the license, shall not exceed \$20,000. The
5 maximum penalty that may be imposed on a licensee for
6 selling a bottle of alcoholic liquor with a foreign
7 object in it or serving from a bottle of alcoholic liquor
8 with a foreign object in it shall be the destruction of
9 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
15 of alcoholic liquor and a fine of up to \$50.

16 (2) To adopt such rules and regulations consistent
17 with the provisions of this Act which shall be necessary
18 to 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
25 of the State, county and municipal governments, county
26 and city police departments and upon prosecuting officers
27 for such information and assistance as it deems necessary
28 in the performance of its duties.

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

33 (5) To inspect, or cause to be inspected, any
34 premises in this State where alcoholic liquors are

1 manufactured, distributed, warehoused, or sold.

2 (5.1) Upon receipt of a complaint or upon having
3 knowledge that any person is engaged in business as a
4 manufacturer, importing distributor, distributor, or
5 retailer without a license or valid license, to notify
6 the local liquor authority, file a complaint with the
7 State's Attorney's Office of the county where the
8 incident occurred, or initiate an investigation with the
9 appropriate law enforcement officials.

10 (5.2) To issue a cease and desist notice to persons
11 shipping alcoholic liquor into this State from a point
12 outside of this State if the shipment is in violation of
13 this Act.

14 (5.3) To receive complaints from licensees, local
15 officials, law enforcement agencies, organizations, and
16 persons stating that any licensee has been or is
17 violating any provision of this Act or the rules and
18 regulations issued pursuant to this Act. Such complaints
19 shall be in writing, signed and sworn to by the person
20 making the complaint, and shall state with specificity
21 the facts in relation to the alleged violation. If the
22 Commission has reasonable grounds to believe that the
23 complaint substantially alleges a violation of this Act
24 or rules and regulations adopted pursuant to this Act, it
25 shall conduct an investigation. If, after conducting an
26 investigation, the Commission is satisfied that the
27 alleged violation did occur, it shall proceed with
28 disciplinary action against the licensee as provided in
29 this Act.

30 (6) To hear and determine appeals from orders of a
31 local commission in accordance with the provisions of
32 this Act, as hereinafter set forth. Hearings under this
33 subsection shall be held in Springfield or Chicago, at
34 whichever location is the more convenient for the

1 majority of persons who are parties to the hearing.

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

27 (8) In the conduct of any hearing authorized to be
28 held by the commission, to examine, or cause to be
29 examined, under oath, any licensee, and to examine or
30 cause to be examined the books and records of such
31 licensee; to hear testimony and take proof material for
32 its information in the discharge of its duties hereunder;
33 to administer or cause to be administered oaths; and for
34 any such purpose to issue subpoena or subpoenas to

1 require the attendance of witnesses and the production of
2 books, which shall be effective in any part of this
3 State.

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

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

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

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

27 (11.1) To license persons providing education and
28 training to alcohol beverage sellers and servers under
29 the Beverage Alcohol Sellers and Servers Education and
30 Training (BASSET) programs and to develop and administer
31 a public awareness program in Illinois to reduce or
32 eliminate the illegal purchase and consumption of
33 alcoholic beverage products by persons under the age of
34 21. Application for a license shall be made on forms

1 provided by the State Commission.

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

4 (13) On or before January 15, 1994, the Commission
5 shall issue a written report to the Governor and General
6 Assembly that is to be based on a comprehensive study of
7 the impact on and implications for the State of Illinois
8 of Section 1926 of the Federal ADAMHA Reorganization Act
9 of 1992 (Public Law 102-321). This study shall address
10 the extent to which Illinois currently complies with the
11 provisions of P.L. 102-321 and the rules promulgated
12 pursuant thereto.

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

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

18 (ii) the number of reported citations and
19 successful convictions, categorized by type and
20 location of retail distributor, for violation of the
21 Sale of Tobacco to Minors Act and the Smokeless
22 Tobacco Limitation Act;

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

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

31 To obtain the data necessary to comply with the
32 provisions of P.L. 102-321 and the requirements of this
33 report, the Commission shall conduct random, unannounced
34 inspections of a geographically and scientifically

1 representative sample of the State's retail tobacco
2 distributors.

3 The Commission shall consult with the Department of
4 Public Health, the Department of Human Services, the
5 Illinois State Police and any other executive branch
6 agency, and private organizations that may have
7 information relevant to this report.

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

15 (14) To conduct compliance actions pursuant to
16 Section 6-16.

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

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

25 (i) the amount of State excise and sales tax
26 revenues generated as a result of this amendatory Act of
27 1998;

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

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

1 (Source: P.A. 90-9, eff. 7-1-97; 90-432, eff. 1-1-98; 90-655,
2 eff. 7-30-98; 90-739, eff. 8-13-98; 91-553, eff. 8-14-99;
3 91-922, eff. 7-7-00.)

4 (235 ILCS 5/4-4) (from Ch. 43, par. 112)

5 Sec. 4-4. Each local liquor control commissioner shall
6 also have the following powers, functions and duties with
7 respect to licenses, other than licenses to manufacturers,
8 importing distributors, distributors, foreign importers,
9 non-resident dealers, non-beverage users, brokers, railroads,
10 airplanes and boats.

11 (1)1. To grant and or suspend for not more than
12 thirty days or revoke for cause all local licenses issued
13 to persons for premises within his jurisdiction;

14 (2)2. To enter or to authorize any law enforcing
15 officer to enter at any time upon any premises licensed
16 hereunder to determine whether any of the provisions of
17 this Act or any rules or regulations adopted by him or by
18 the State Commission have been or are being violated, and
19 at such time to examine said premises of said licensee in
20 connection therewith;

21 (3)3. To notify the Secretary of State where a club
22 incorporated under the General Not for Profit Corporation
23 Act of 1986 or a foreign corporation functioning as a
24 club in this State under a certificate of authority
25 issued under that Act has violated this Act by selling or
26 offering for sale at retail alcoholic liquors without a
27 retailer's license;

28 (4)4. To receive complaint from any citizen within
29 his jurisdiction that any of the provisions of this Act,
30 or any rules or regulations adopted pursuant hereto, have
31 been or are being violated and to act upon such
32 complaints in the manner hereinafter provided;

33 (5)5. To receive local license fees and pay the

1 same forthwith to the city, village, town or county
2 treasurer as the case may be.

3 (6) To conduct compliance actions pursuant to
4 Section 6-16.1.

5 In counties and municipalities, the local liquor control
6 commissioners shall also have the power to levy fines in
7 accordance with Section 7-5 of this Act.

8 (Source: P.A. 91-357, eff. 7-29-99.)

9 (235 ILCS 5/6-16.1)

10 Sec. 6-16.1. Enforcement actions.

11 (a) A member of the State Commission or any person
12 designated by the State Commission or a local liquor control
13 commission or any person designated by a local liquor control
14 commissioner or any law enforcement agency may employ or
15 direct a person as an agent to attempt to purchase alcoholic
16 liquor or tobacco from a licensee in order to conduct an
17 alcohol or tobacco compliance operation in cooperation with
18 local law enforcement authorities to investigate whether a
19 licensee is furnishing (1) alcoholic liquor to persons under
20 21 years of age in violation of this Act or (2) tobacco to
21 persons under 18 years of age in violation of the Sale of
22 Tobacco to Minors Act. An agent employed or directed to
23 attempt to purchase alcoholic liquor or tobacco from the
24 licensee:

25 (i) shall be no younger than 18 years of age and
26 shall be less than 20 years of age if he or she is
27 attempting to purchase alcoholic liquor;

28 (ii) shall be no younger than 16 years of age and
29 shall be less than 18 years of age if he or she is
30 attempting to purchase tobacco;

31 (iii) shall be required to demonstrate that he or
32 she is of good character, including, but not limited to,
33 proof that he or she has no record of prior liquor or

1 tobacco violations, including prior attempts to
2 unlawfully purchase alcoholic liquor or tobacco;

3 (iv) shall not disguise his or her appearance and
4 demeanor so as to misrepresent his or her actual age.

5 (b) When actively participating in any phase of an
6 alcohol or tobacco compliance operation, an agent employed or
7 directed to attempt to purchase alcoholic liquor or tobacco
8 from the licensee:

9 (i) shall not wear cosmetics, jewelry, or clothing
10 that is not generally commensurate with his or her actual
11 age and, if male, shall not have facial hair;

12 (ii) shall not initiate conversation with the
13 licensee or the officer, associate, member,
14 representative, agent, or employee of the licensee and
15 shall speak only when necessary to attempt to complete
16 the purchase of alcoholic liquor or tobacco;

17 (iii) shall, excepting only those questions as to
18 the agent's employment, respond truthfully to all
19 questions posed by the licensee or the officer,
20 associate, member, representative, agent, or employee of
21 the licensee, including, but not limited to, inquiries
22 concerning his or her age; and

23 (iv) if identification is demanded by the licensee
24 or the officer, associate, member, representative, agent,
25 or employee of the licensee, shall indicate either that
26 he or she is not carrying any identification or shall
27 produce only a valid state-issued identification,
28 previously approved by the supervising officer, that
29 indicates his or her actual date of birth.

30 (c) (i) If the State Commission or a local liquor
31 control commissioner adopts an alcohol or tobacco
32 compliance program, it shall be required to establish a
33 schedule of operations, during which time all licensed
34 premises within its jurisdiction shall be investigated

1 for compliance with the provisions of this Act concerning
2 the sale of alcoholic liquor to persons under 21 years of
3 age and with the provisions of the Sale of Tobacco to
4 Minors Act to ensure compliance with that Act.

5 (ii) An alcohol or tobacco compliance operation
6 shall be conducted no more than 3 times at each location
7 during any consecutive 12-month period.

8 (iii) A licensee that is subjected to an alcohol or
9 tobacco compliance operation and found not to have
10 violated the provisions of this Act concerning the sale
11 of alcoholic liquor to persons under 21 years of age or
12 the provisions of the Sale of Tobacco to Minors Act
13 shall, within 30 days of the operation, be notified in
14 writing by the local liquor control commissioner or law
15 enforcement agency of the date and approximate time of
16 the operation as well as of the licensee's compliance.
17 The written notification shall be made part of the
18 licensee's file maintained by the local liquor control
19 commission and shall be used solely for the purposes of
20 mitigation of the assessment by the local liquor control
21 commission of a penalty in subsequent proceedings for the
22 revocation or suspension of the licensee's liquor
23 license.

24 (iv) Compliance operations, in addition to those
25 conducted pursuant to items (i) and (ii) of this
26 subsection, may be conducted on the premises of any
27 licensee in response to documented complaints of
28 purchases of alcoholic liquor by persons under 21 years
29 of age or tobacco by persons under 18 years of age. The
30 reasons for any unscheduled operation shall be explained
31 in writing to the State Commission or local liquor
32 control commissioner by the law enforcement authority
33 conducting the operation.

34 (d) Prior to the commencement of any alcohol or tobacco

1 compliance operation, the law enforcement agency conducting
2 the operation shall designate a police officer as the
3 supervising officer of the operation. The supervising officer
4 shall:

5 (i) photograph or create a video record of the
6 agent in the clothing to be worn during the operation or
7 both;

8 (ii) ensure that during the operation the agent
9 carries no identification or carries only a valid
10 State-issued identification that indicates his or her
11 actual date of birth;

12 (iii) ensure that the agent enters the licensed
13 premises alone and attempts (1) to purchase an alcoholic
14 beverage without the presence or assistance of any person
15 over age 21, including the supervising officer or (2) to
16 purchase tobacco without the presence or assistance of
17 any person over 18 years of age, including the
18 supervising officer. However, nothing in this Section
19 shall prevent the supervising officer from entering the
20 premises before or after the agent for the purposes of
21 surveillance or observation of the attempted purchase;
22 and

23 (iv) be on or about the premises and directly
24 supervise the attempted purchase.

25 (e) A person shall not act as a supervising officer for
26 the purposes of this Section unless he or she has
27 successfully completed a training course in the use of minors
28 as police special agents in liquor age compliance testing or
29 tobacco age compliance testing as set forth by the Illinois
30 Law Enforcement Training Standards Board. The training shall
31 be at least 4 hours in duration and successful completion
32 shall be evidenced by the issuance of a certificate by the
33 Illinois Law Enforcement Training Standards Board.

34 A supervising officer shall conduct an informal training

1 session with any person employed or directed as an agent to
 2 attempt to purchase alcoholic liquor or tobacco from a
 3 licensee immediately before beginning an alcohol or tobacco
 4 compliance operation. In the case of an alcohol compliance
 5 operation, the training shall consist of training the police
 6 special agent as to the established rules of this Act as they
 7 apply to liquor age restriction compliance testing. In the
 8 case of a tobacco compliance operation, the training shall
 9 consist of training the police special agent as to the
 10 established rules of the Sale of Tobacco to Minors Act as
 11 they apply to tobacco age restriction compliance testing.

12 (f) Failure to conduct a compliance operation in
 13 compliance with subsections (a), (b), (c), (d), and (e) of
 14 this Section shall constitute an affirmative defense in any
 15 criminal prosecution therefor and to any proceedings for the
 16 suspension or revocation of any license based thereon.

17 (g) A home rule unit may not regulate enforcement
 18 actions in a manner inconsistent with the regulation by the
 19 State of enforcement actions under this Section. This
 20 subsection (g) is a limitation under subsection (i) of
 21 Section 6 of Article VII of the Illinois Constitution on the
 22 concurrent exercise by home rule units of powers and
 23 functions exercised by the State. A-licensee-or-an--officer,
 24 associate,~~7--member,~~~~7--representative,~~~~7--agent,~~~~7-or-employee-of-a~~
 25 licensee-may-sell,~~7-give,~~~~7-or-deliver--alcoholic--liquor--to--a~~
 26 person-under-the-age-of-21-years-or-authorize-the-sale,~~7-gift,~~
 27 or--delivery-of-alcoholic-liquor-to-a-person-under-the-age-of
 28 21-years-pursuant-to-a-plan-or-action-to-investigate,~~7-patrol,~~
 29 or-otherwise--conduct--a--"sting--operation"--or--enforcement
 30 action--against--a--person-employed-by-the-licensee-or-on-any
 31 licensed-premises-if--the--licensee--or--officer,~~7--associate,~~
 32 member,~~7--representative,~~~~7--agent,~~~~7--or-employee-of-the-licensee~~
 33 provides-written-notice,~~7-at-least-14-days-before--the--"sting~~
 34 operation"--or--enforcement--action,~~7-unless-governing-body-of~~

1 the-municipality-or-county-having-jurisdiction-sets-a-shorter
2 period-by-ordinance, to-the-law-enforcement-agency-having
3 jurisdiction, the-local-liquor-control-commissioner, or-both.
4 Notice-provided-under-this-Section-shall-be-valid-for-a
5 "sting-operation"-or-enforcement-action-conducted-within-60
6 days-of-the-provision-of-that-notice, unless-the-governing
7 body-of-the-municipality-or-county-having-jurisdiction-sets-a
8 shorter-period-by-ordinance.

9 (Source: P.A. 90-355, eff. 8-10-97.)