

SB3960



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3960

Introduced 1/21/2022, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

235 ILCS 5/8-2

from Ch. 43, par. 159

Amends the Liquor Control Act of 1934. Excludes new applicants for a manufacturer license or importing distributor license from provisions that require certain licensees to file a bond with the Department of Revenue. Effective immediately.

LRB102 19261 RPS 28027 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 Section 8-2 as follows:

6 (235 ILCS 5/8-2) (from Ch. 43, par. 159)

7 Sec. 8-2. Payments; reports. It is the duty of each
8 manufacturer with respect to alcoholic liquor produced or
9 imported by such manufacturer, or purchased tax-free by such
10 manufacturer from another manufacturer or importing
11 distributor, and of each importing distributor as to alcoholic
12 liquor purchased by such importing distributor from foreign
13 importers or from anyone from any point in the United States
14 outside of this State or purchased tax-free from another
15 manufacturer or importing distributor, to pay the tax imposed
16 by Section 8-1 to the Department of Revenue on or before the
17 15th day of the calendar month following the calendar month in
18 which such alcoholic liquor is sold or used by such
19 manufacturer or by such importing distributor other than in an
20 authorized tax-free manner or to pay that tax electronically
21 as provided in this Section.

22 Each manufacturer and each importing distributor shall
23 make payment under one of the following methods: (1) on or

1 before the 15th day of each calendar month, file in person or
2 by United States first-class mail, postage pre-paid, with the
3 Department of Revenue, on forms prescribed and furnished by
4 the Department, a report in writing in such form as may be
5 required by the Department in order to compute, and assure the
6 accuracy of, the tax due on all taxable sales and uses of
7 alcoholic liquor occurring during the preceding month. Payment
8 of the tax in the amount disclosed by the report shall
9 accompany the report or, (2) on or before the 15th day of each
10 calendar month, electronically file with the Department of
11 Revenue, on forms prescribed and furnished by the Department,
12 an electronic report in such form as may be required by the
13 Department in order to compute, and assure the accuracy of,
14 the tax due on all taxable sales and uses of alcoholic liquor
15 occurring during the preceding month. An electronic payment of
16 the tax in the amount disclosed by the report shall accompany
17 the report. A manufacturer or distributor who files an
18 electronic report and electronically pays the tax imposed
19 pursuant to Section 8-1 to the Department of Revenue on or
20 before the 15th day of the calendar month following the
21 calendar month in which such alcoholic liquor is sold or used
22 by that manufacturer or importing distributor other than in an
23 authorized tax-free manner shall pay to the Department the
24 amount of the tax imposed pursuant to Section 8-1, less a
25 discount which is allowed to reimburse the manufacturer or
26 importing distributor for the expenses incurred in keeping and

1 maintaining records, preparing and filing the electronic
2 returns, remitting the tax, and supplying data to the
3 Department upon request.

4 The discount shall be in an amount as follows:

5 (1) For original returns due on or after January 1,
6 2003 through September 30, 2003, the discount shall be
7 1.75% or \$1,250 per return, whichever is less;

8 (2) For original returns due on or after October 1,
9 2003 through September 30, 2004, the discount shall be 2%
10 or \$3,000 per return, whichever is less; and

11 (3) For original returns due on or after October 1,
12 2004, the discount shall be 2% or \$2,000 per return,
13 whichever is less.

14 The Department may, if it deems it necessary in order to
15 insure the payment of the tax imposed by this Article, require
16 returns to be made more frequently than and covering periods
17 of less than a month. Such return shall contain such further
18 information as the Department may reasonably require.

19 It shall be presumed that all alcoholic liquors acquired
20 or made by any importing distributor or manufacturer have been
21 sold or used by him in this State and are the basis for the tax
22 imposed by this Article unless proven, to the satisfaction of
23 the Department, that such alcoholic liquors are (1) still in
24 the possession of such importing distributor or manufacturer,
25 or (2) prior to the termination of possession have been lost by
26 theft or through unintentional destruction, or (3) that such

1 alcoholic liquors are otherwise exempt from taxation under
2 this Act.

3 If any payment provided for in this Section exceeds the
4 manufacturer's or importing distributor's liabilities under
5 this Act, as shown on an original report, the manufacturer or
6 importing distributor may credit such excess payment against
7 liability subsequently to be remitted to the Department under
8 this Act, in accordance with reasonable rules adopted by the
9 Department. If the Department subsequently determines that all
10 or any part of the credit taken was not actually due to the
11 manufacturer or importing distributor, the manufacturer's or
12 importing distributor's discount shall be reduced by an amount
13 equal to the difference between the discount as applied to the
14 credit taken and that actually due, and the manufacturer or
15 importing distributor shall be liable for penalties and
16 interest on such difference.

17 The Department may require any foreign importer to file
18 monthly information returns, by the 15th day of the month
19 following the month which any such return covers, if the
20 Department determines this to be necessary to the proper
21 performance of the Department's functions and duties under
22 this Act. Such return shall contain such information as the
23 Department may reasonably require.

24 Every manufacturer and importing distributor, except for a
25 new applicant for a manufacturer license or importing
26 distributor license or a manufacturer or importing distributor

1 that in the preceding year had less than \$50,000 of tax
2 liability under this Article, shall also file, with the
3 Department, a bond in an amount not less than \$1,000 and not to
4 exceed \$100,000 on a form to be approved by, and with a surety
5 or sureties satisfactory to, the Department. Such bond shall
6 be conditioned upon the manufacturer or importing distributor
7 paying to the Department all monies becoming due from such
8 manufacturer or importing distributor under this Article. The
9 Department shall fix the penalty of such bond in each case,
10 taking into consideration the amount of alcoholic liquor
11 expected to be sold and used by such manufacturer or importing
12 distributor, and the penalty fixed by the Department shall be
13 sufficient, in the Department's opinion, to protect the State
14 of Illinois against failure to pay any amount due under this
15 Article, but the amount of the penalty fixed by the Department
16 shall not exceed twice the amount of tax liability of a monthly
17 return, nor shall the amount of such penalty be less than
18 \$1,000. The Department shall notify the State Commission of
19 the Department's approval or disapproval of any such
20 manufacturer's or importing distributor's bond, or of the
21 termination or cancellation of any such bond, or of the
22 Department's direction to a manufacturer or importing
23 distributor that he must file additional bond in order to
24 comply with this Section. The Commission shall not issue a
25 license to any applicant for a manufacturer's or importing
26 distributor's license unless the Commission has received a

1 notification from the Department showing that such applicant
2 has filed a satisfactory bond with the Department hereunder
3 and that such bond has been approved by the Department.
4 Failure by any licensed manufacturer or importing distributor
5 to keep a satisfactory bond in effect with the Department or to
6 furnish additional bond to the Department, when required
7 hereunder by the Department to do so, shall be grounds for the
8 revocation or suspension of such manufacturer's or importing
9 distributor's license by the Commission. If a manufacturer or
10 importing distributor fails to pay any amount due under this
11 Article, his bond with the Department shall be deemed
12 forfeited, and the Department may institute a suit in its own
13 name on such bond.

14 After notice and opportunity for a hearing the State
15 Commission may revoke or suspend the license of any
16 manufacturer or importing distributor who fails to comply with
17 the provisions of this Section. Notice of such hearing and the
18 time and place thereof shall be in writing and shall contain a
19 statement of the charges against the licensee. Such notice may
20 be given by United States registered or certified mail with
21 return receipt requested, addressed to the person concerned at
22 his last known address and shall be given not less than 7 days
23 prior to the date fixed for the hearing. An order revoking or
24 suspending a license under the provisions of this Section may
25 be reviewed in the manner provided in Section 7-10 of this Act.
26 No new license shall be granted to a person whose license has

1 been revoked for a violation of this Section or, in case of
2 suspension, shall such suspension be terminated until he has
3 paid to the Department all taxes and penalties which he owes
4 the State under the provisions of this Act.

5 Every manufacturer or importing distributor who has, as
6 verified by the Department, continuously complied with the
7 conditions of the bond under this Act for a period of 2 years
8 shall be considered to be a prior continuous compliance
9 taxpayer. In determining the consecutive period of time for
10 qualification as a prior continuous compliance taxpayer, any
11 consecutive period of time of qualifying compliance
12 immediately prior to the effective date of this amendatory Act
13 of 1987 shall be credited to any manufacturer or importing
14 distributor.

15 A manufacturer or importing distributor that is a prior
16 continuous compliance taxpayer under this Section and becomes
17 a successor as the result of an acquisition, merger, or
18 consolidation of a manufacturer or importing distributor shall
19 be deemed to be a prior continuous compliance taxpayer with
20 respect to the acquired, merged, or consolidated entity.

21 Every prior continuous compliance taxpayer shall be exempt
22 from the bond requirements of this Act until the Department
23 has determined the taxpayer to be delinquent in the filing of
24 any return or deficient in the payment of any tax under this
25 Act. Any taxpayer who fails to pay an admitted or established
26 liability under this Act may also be required to post bond or

1 other acceptable security with the Department guaranteeing the
2 payment of such admitted or established liability.

3 The Department shall discharge any surety and shall
4 release and return any bond or security deposit assigned,
5 pledged or otherwise provided to it by a taxpayer under this
6 Section within 30 days after: (1) such taxpayer becomes a
7 prior continuous compliance taxpayer; or (2) such taxpayer has
8 ceased to collect receipts on which he is required to remit tax
9 to the Department, has filed a final tax return, and has paid
10 to the Department an amount sufficient to discharge his
11 remaining tax liability as determined by the Department under
12 this Act.

13 (Source: P.A. 100-1171, eff. 1-4-19; 101-37, eff. 7-3-19.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.