

SB0070



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0070

Introduced 1/20/2023, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

235 ILCS 5/6-40 new

Amends the Liquor Control Act of 1934. Provides that the act by a manufacturer of directly or indirectly offering or providing coupons to consumers that are redeemable at or through a retailer or third-party agent does not constitute a violation under the Act if certain conditions are met. Provides that a coupon may require the purchase of one alcoholic liquor product to obtain a full or partial discount on a separate alcoholic liquor product; may be offered as part of a retailer loyalty program or awards program; may include nonalcoholic products; and may be offered by a manufacturer to a consumer for a discount on a purchase from a licensed on-premise or off-premise retailer. Provides that on and after January 1, 2024, manufacturers shall not offer paper coupons that require a consumer to present the paper coupon to the retailer at the time of purchase to obtain the discount. Contains provisions concerning definitions; consumer promotions; notice of consumer promotions to the Illinois Liquor Control Commission; recordkeeping; State Commission enforcement of policies, rules, or statements of general applicability; and other provisions. Effective immediately.

LRB103 05146 RPS 50161 b

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 adding Section 6-40 as follows:

6 (235 ILCS 5/6-40 new)

7 Sec. 6-40. Consumer promotions and coupons.

8 (a) In this Section:

9 "Consumer promotion" means any advertisement placed in any
10 format, including, but not limited to, paper, digital,
11 electronic, online mobile application, or similar format, that
12 advertises an alcoholic liquor discount, program, contest
13 prize, premium offer, refund, or similar items but cannot
14 itself be used to participate in the program or receive
15 redemptions, prizes, or similar items.

16 "Coupon" means any method, including, but not limited to,
17 paper, digital, electronic, online mobile application, or
18 similar format, by which a consumer receives a discount from
19 the purchase price of an item if an alcoholic beverage
20 purchase is required in connection with such purchase that is
21 funded, produced, sponsored, promoted, or furnished, either
22 directly or indirectly, by a manufacturer or third-party agent
23 and redeemed directly or indirectly by a manufacturer,

1 third-party agent, or retailer. "Coupon" does not include
2 consumer promotions.

3 (b) The act by a manufacturer of directly or indirectly
4 offering or providing coupons to consumers that are redeemable
5 at or through a retailer or third-party agent does not
6 constitute a violation under this Act if the following
7 conditions are met:

8 (1) The manufacturer does not reimburse a retailer for
9 more than the face value of a coupon.

10 (2) The manufacturer does not offer coupons that make
11 any alcoholic liquor free of charge.

12 (3) The retailer prohibits the use of a coupon by any
13 consumer below the age of 21.

14 (4) Coupons provided by the manufacturer do not
15 identify the name or brand of the retailer.

16 (5) The manufacturer does not offer a coupon that is
17 redeemable for retailer branded or retailer private label
18 products.

19 (6) Coupons offered by the manufacturer contain an
20 expiration date and a retailer does not accept a coupon
21 from a consumer beyond the expiration date.

22 (7) The manufacturer does not require a retailer to
23 accept coupons.

24 (8) The retailer does not require a manufacturer to
25 provide coupons.

26 (9) The retailer provides the full amount of the

1 discount to the consumer.

2 (10) The manufacturer offering, promoting, furnishing,
3 or providing coupons makes such coupons redeemable at all
4 retailers that elect and are able to participate.

5 (11) A distributor is not required to disseminate any
6 coupons on the behalf of the manufacturer to any retailer.

7 (12) Printed coupons are not offered or provided
8 anywhere on the retailer's premises.

9 (13) The manufacturer does not reimburse a retailer
10 unless the consumer meets the terms and conditions of the
11 consumer promotion.

12 (14) Alcoholic liquor discounts are only applied as
13 part of a consumer promotion. No manufacturer shall offer
14 a coupon or provide reimbursement for alcoholic liquors
15 that are not subject to a manufacturer consumer promotion.

16 (15) The coupon does not provide a full or partial
17 discount for the purchase of an alcoholic liquor product
18 that would apply to a separate alcoholic liquor product
19 that is not manufactured or owned by the same alcohol
20 manufacturer.

21 (c) A coupon may require the purchase of one alcoholic
22 liquor product to obtain a full or partial discount on a
23 separate alcoholic product.

24 (d) A coupon may be offered as part of a retailer loyalty
25 program or awards program.

26 (e) A coupon for alcoholic liquor may include nonalcoholic

1 products as long as the discount applies to a nonalcoholic
2 product that is not a retailer branded or private label
3 product.

4 (f) A coupon may be offered by a manufacturer to a consumer
5 for a discount on a purchase from a licensed on-premise or
6 off-premise retailer.

7 (g) Consumer promotions are allowed on on-premise and
8 off-premise retail premises.

9 (h) A coupon or consumer promotion may be promoted,
10 provided, furnished, or fulfilled through a third-party agent
11 acting on behalf of the manufacturer offering the coupon or
12 consumer promotion. Any act or omission of a third-party agent
13 related to a coupon or consumer promotion is the act or
14 omission of the manufacturer.

15 (i) Any licensee that funds, offers, or redeems coupons
16 shall maintain complete, accurate, and itemized records of
17 reimbursements. All records of reimbursement, including any
18 supporting documentation, including, but not limited to,
19 consumer promotions, purchase invoices, sales receipts, or
20 similar documentation, shall be maintained by the licensee for
21 a period of no less than 3 years after the reimbursement. A
22 licensee shall make records of reimbursements and supporting
23 documentation available upon reasonable notice for the purpose
24 of investigation by the State Commission. The records may be
25 kept in an electronic or digital format.

26 (j) A discount funded solely by the manufacturer or

1 retailer and provided directly or indirectly to a consumer
2 through a third-party agent and redeemed by a manufacturer,
3 retailer, or third-party agent is not a coupon under this
4 Section and not a violation under Section 6-5 or 6-6 of this
5 Act.

6 (k) On and after January 1, 2024, manufacturers shall not
7 offer paper coupons that require a consumer to present the
8 paper coupon to the retailer at the time of purchase to obtain
9 the discount.

10 (l) Any consumer promotion that is offered in the State
11 shall be posted on the State Commission's website 30 days
12 before the start of the promotion. The consumer promotion
13 information shall be submitted to the State Commission on a
14 form provided by the State Commission that includes the
15 following information:

16 (1) the manufacturer offering the consumer promotion;

17 (2) the consumer promotion details, including the
18 exact product or products for the consumer promotion, size
19 or sizes of the product for the consumer promotion, and,
20 if applicable, the rebate amount for the consumer
21 promotion; and

22 (3) the beginning and end date of the consumer
23 promotion.

24 The State Commission shall post the consumer promotion
25 information no later than 48 hours after receiving the
26 consumer promotion information.

1 (m) Subject to the conditions set forth in subsection (b),
2 nothing in this Section shall be construed to limit or
3 prohibit a consumer promotion, coupon program, or similar
4 discount.

5 (n) The State Commission shall not enforce any policy,
6 rule, or statement of general applicability that implements
7 applies, or interprets this Section that was not adopted in
8 accordance with the Illinois Administrative Procedure Act. Any
9 policy, rule, or statement of general applicability that
10 implements, applies, or interprets this Section that was not
11 adopted in accordance with the Illinois Administrative
12 Procedure Act is invalid, is not effective against any person
13 or entity, and may not be invoked or enforced by the State
14 Commission, person, or any other entity for any purpose.

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