



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/6/2004, by Louis S. Viverito

**SYNOPSIS AS INTRODUCED:**

235 ILCS 5/5-1

from Ch. 43, par. 115

Amends the Liquor Control Act of 1934. Provides that a non-resident dealer's licensee that meets the qualifications for licensure as a first-class wine-maker's licensee, other than the requirement that he or she be located in Illinois, may manufacture, store, and sell wine in the same manner as a first-class wine-maker's licensee. Provides that a non-resident dealer's licensee that meets the qualifications for licensure as a second-class wine-maker's licensee, other than the requirement that he or she be located in Illinois, may manufacture, store, and sell wine in the same manner as a second-class wine-maker's licensee. Effective immediately.

LRB093 19002 LRD 44737 b

1 AN ACT concerning 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 Section 5-1 as follows:

6 (235 ILCS 5/5-1) (from Ch. 43, par. 115)

7 Sec. 5-1. Licenses issued by the Illinois Liquor Control  
8 Commission shall be of the following classes:

9 (a) Manufacturer's license - Class 1. Distiller, Class 2.  
10 Rectifier, Class 3. Brewer, Class 4. First Class Wine  
11 Manufacturer, Class 5. Second Class Wine Manufacturer, Class 6.  
12 First Class Winemaker, Class 7. Second Class Winemaker, Class  
13 8. Limited Wine Manufacturer,

14 (b) Distributor's license,

15 (c) Importing Distributor's license,

16 (d) Retailer's license,

17 (e) Special Event Retailer's license (not-for-profit),

18 (f) Railroad license,

19 (g) Boat license,

20 (h) Non-Beverage User's license,

21 (i) Wine-maker's premises license,

22 (j) Airplane license,

23 (k) Foreign importer's license,

24 (l) Broker's license,

25 (m) Non-resident dealer's license,

26 (n) Brew Pub license,

27 (o) Auction liquor license,

28 (p) Caterer retailer license,

29 (q) Special use permit license.

30 No person, firm, partnership, corporation, or other legal  
31 business entity that is engaged in the manufacturing of wine  
32 may concurrently obtain and hold a wine-maker's license and a

1 wine manufacturer's license.

2 (a) A manufacturer's license shall allow the manufacture,  
3 importation in bulk, storage, distribution and sale of  
4 alcoholic liquor to persons without the State, as may be  
5 permitted by law and to licensees in this State as follows:

6 Class 1. A Distiller may make sales and deliveries of  
7 alcoholic liquor to distillers, rectifiers, importing  
8 distributors, distributors and non-beverage users and to no  
9 other licensees.

10 Class 2. A Rectifier, who is not a distiller, as defined  
11 herein, may make sales and deliveries of alcoholic liquor to  
12 rectifiers, importing distributors, distributors, retailers  
13 and non-beverage users and to no other licensees.

14 Class 3. A Brewer may make sales and deliveries of beer to  
15 importing distributors, distributors, and to non-licensees,  
16 and to retailers provided the brewer obtains an importing  
17 distributor's license or distributor's license in accordance  
18 with the provisions of this Act.

19 Class 4. A first class wine-manufacturer may make sales and  
20 deliveries of up to 50,000 gallons of wine to manufacturers,  
21 importing distributors and distributors, and to no other  
22 licensees.

23 Class 5. A second class Wine manufacturer may make sales  
24 and deliveries of more than 50,000 gallons of wine to  
25 manufacturers, importing distributors and distributors and to  
26 no other licensees.

27 Class 6. A first-class wine-maker's license shall allow the  
28 manufacture of up to 50,000 gallons of wine per year, and the  
29 storage and sale of such wine to distributors in the State and  
30 to persons without the State, as may be permitted by law. A  
31 first-class wine-maker's license shall allow the sale of no  
32 more than 5,000 gallons of the licensee's wine to retailers.  
33 The State Commission shall issue only one first-class  
34 wine-maker's license to any person, firm, partnership,  
35 corporation, or other legal business entity that is engaged in  
36 the making of less than 50,000 gallons of wine annually that

1 applies for a first-class wine-maker's license. No subsidiary  
2 or affiliate thereof, nor any officer, associate, member,  
3 partner, representative, employee, agent, or shareholder may  
4 be issued an additional wine-maker's license by the State  
5 Commission.

6 Class 7. A second-class wine-maker's license shall allow  
7 the manufacture of between 50,000 and 100,000 gallons of wine  
8 per year, and the storage and sale of such wine to distributors  
9 in this State and to persons without the State, as may be  
10 permitted by law. A second-class wine-maker's license shall  
11 allow the sale of no more than 10,000 gallons of the licensee's  
12 wine directly to retailers. The State Commission shall issue  
13 only one second-class wine-maker's license to any person, firm,  
14 partnership, corporation, or other legal business entity that  
15 is engaged in the making of less than 100,000 gallons of wine  
16 annually that applies for a second-class wine-maker's license.  
17 No subsidiary or affiliate thereof, or any officer, associate,  
18 member, partner, representative, employee, agent, or  
19 shareholder may be issued an additional wine-maker's license by  
20 the State Commission.

21 Class 8. A limited wine-manufacturer may make sales and  
22 deliveries not to exceed 40,000 gallons of wine per year to  
23 distributors, and to non-licensees in accordance with the  
24 provisions of this Act.

25 (a-1) A manufacturer which is licensed in this State to  
26 make sales or deliveries of alcoholic liquor and which enlists  
27 agents, representatives, or individuals acting on its behalf  
28 who contact licensed retailers on a regular and continual basis  
29 in this State must register those agents, representatives, or  
30 persons acting on its behalf with the State Commission.

31 Registration of agents, representatives, or persons acting  
32 on behalf of a manufacturer is fulfilled by submitting a form  
33 to the Commission. The form shall be developed by the  
34 Commission and shall include the name and address of the  
35 applicant, the name and address of the manufacturer he or she  
36 represents, the territory or areas assigned to sell to or

1 discuss pricing terms of alcoholic liquor, and any other  
2 questions deemed appropriate and necessary. All statements in  
3 the forms required to be made by law or by rule shall be deemed  
4 material, and any person who knowingly misstates any material  
5 fact under oath in an application is guilty of a Class B  
6 misdemeanor. Fraud, misrepresentation, false statements,  
7 misleading statements, evasions, or suppression of material  
8 facts in the securing of a registration are grounds for  
9 suspension or revocation of the registration.

10 (b) A distributor's license shall allow the wholesale  
11 purchase and storage of alcoholic liquors and sale of alcoholic  
12 liquors to licensees in this State and to persons without the  
13 State, as may be permitted by law.

14 (c) An importing distributor's license may be issued to and  
15 held by those only who are duly licensed distributors, upon the  
16 filing of an application by a duly licensed distributor, with  
17 the Commission and the Commission shall, without the payment of  
18 any fee, immediately issue such importing distributor's  
19 license to the applicant, which shall allow the importation of  
20 alcoholic liquor by the licensee into this State from any point  
21 in the United States outside this State, and the purchase of  
22 alcoholic liquor in barrels, casks or other bulk containers and  
23 the bottling of such alcoholic liquors before resale thereof,  
24 but all bottles or containers so filled shall be sealed,  
25 labeled, stamped and otherwise made to comply with all  
26 provisions, rules and regulations governing manufacturers in  
27 the preparation and bottling of alcoholic liquors. The  
28 importing distributor's license shall permit such licensee to  
29 purchase alcoholic liquor from Illinois licensed non-resident  
30 dealers and foreign importers only.

31 (d) A retailer's license shall allow the licensee to sell  
32 and offer for sale at retail, only in the premises specified in  
33 such license, alcoholic liquor for use or consumption, but not  
34 for resale in any form: Provided that any retail license issued  
35 to a manufacturer shall only permit such manufacturer to sell  
36 beer at retail on the premises actually occupied by such

1 manufacturer.

2 After January 1, 1995 there shall be 2 classes of licenses  
3 issued under a retailers license.

4 (1) A "retailers on premise consumption license" shall  
5 allow the licensee to sell and offer for sale at retail,  
6 only on the premises specified in the license, alcoholic  
7 liquor for use or consumption on the premises or on and off  
8 the premises, but not for resale in any form.

9 (2) An "off premise sale license" shall allow the  
10 licensee to sell, or offer for sale at retail, alcoholic  
11 liquor intended only for off premise consumption and not  
12 for resale in any form.

13 Notwithstanding any other provision of this subsection  
14 (d), a retail licensee may sell alcoholic liquors to a special  
15 event retailer licensee for resale to the extent permitted  
16 under subsection (e).

17 (e) A special event retailer's license (not-for-profit)  
18 shall permit the licensee to purchase alcoholic liquors from an  
19 Illinois licensed distributor (unless the licensee purchases  
20 less than \$500 of alcoholic liquors for the special event, in  
21 which case the licensee may purchase the alcoholic liquors from  
22 a licensed retailer) and shall allow the licensee to sell and  
23 offer for sale, at retail, alcoholic liquors for use or  
24 consumption, but not for resale in any form and only at the  
25 location and on the specific dates designated for the special  
26 event in the license. An applicant for a special event retailer  
27 license must (i) furnish with the application: (A) a resale  
28 number issued under Section 2c of the Retailers' Occupation Tax  
29 Act or evidence that the applicant is registered under Section  
30 2a of the Retailers' Occupation Tax Act, (B) a current, valid  
31 exemption identification number issued under Section 1g of the  
32 Retailers' Occupation Tax Act, and a certification to the  
33 Commission that the purchase of alcoholic liquors will be a  
34 tax-exempt purchase, or (C) a statement that the applicant is  
35 not registered under Section 2a of the Retailers' Occupation  
36 Tax Act, does not hold a resale number under Section 2c of the

1 Retailers' Occupation Tax Act, and does not hold an exemption  
2 number under Section 1g of the Retailers' Occupation Tax Act,  
3 in which event the Commission shall set forth on the special  
4 event retailer's license a statement to that effect; (ii)  
5 submit with the application proof satisfactory to the State  
6 Commission that the applicant will provide dram shop liability  
7 insurance in the maximum limits; and (iii) show proof  
8 satisfactory to the State Commission that the applicant has  
9 obtained local authority approval.

10 (f) A railroad license shall permit the licensee to import  
11 alcoholic liquors into this State from any point in the United  
12 States outside this State and to store such alcoholic liquors  
13 in this State; to make wholesale purchases of alcoholic liquors  
14 directly from manufacturers, foreign importers, distributors  
15 and importing distributors from within or outside this State;  
16 and to store such alcoholic liquors in this State; provided  
17 that the above powers may be exercised only in connection with  
18 the importation, purchase or storage of alcoholic liquors to be  
19 sold or dispensed on a club, buffet, lounge or dining car  
20 operated on an electric, gas or steam railway in this State;  
21 and provided further, that railroad licensees exercising the  
22 above powers shall be subject to all provisions of Article VIII  
23 of this Act as applied to importing distributors. A railroad  
24 license shall also permit the licensee to sell or dispense  
25 alcoholic liquors on any club, buffet, lounge or dining car  
26 operated on an electric, gas or steam railway regularly  
27 operated by a common carrier in this State, but shall not  
28 permit the sale for resale of any alcoholic liquors to any  
29 licensee within this State. A license shall be obtained for  
30 each car in which such sales are made.

31 (g) A boat license shall allow the sale of alcoholic liquor  
32 in individual drinks, on any passenger boat regularly operated  
33 as a common carrier on navigable waters in this State or on any  
34 riverboat operated under the Riverboat Gambling Act, which boat  
35 or riverboat maintains a public dining room or restaurant  
36 thereon.

1 (h) A non-beverage user's license shall allow the licensee  
 2 to purchase alcoholic liquor from a licensed manufacturer or  
 3 importing distributor, without the imposition of any tax upon  
 4 the business of such licensed manufacturer or importing  
 5 distributor as to such alcoholic liquor to be used by such  
 6 licensee solely for the non-beverage purposes set forth in  
 7 subsection (a) of Section 8-1 of this Act, and such licenses  
 8 shall be divided and classified and shall permit the purchase,  
 9 possession and use of limited and stated quantities of  
 10 alcoholic liquor as follows:

- 11 Class 1, not to exceed ..... 500 gallons
- 12 Class 2, not to exceed ..... 1,000 gallons
- 13 Class 3, not to exceed ..... 5,000 gallons
- 14 Class 4, not to exceed .....10,000 gallons
- 15 Class 5, not to exceed .....50,000 gallons

16 (i) A wine-maker's premises license shall allow a licensee  
 17 that concurrently holds a first-class wine-maker's license to  
 18 sell and offer for sale at retail in the premises specified in  
 19 such license not more than 50,000 gallons of the first-class  
 20 wine-maker's wine that is made at the first-class wine-maker's  
 21 licensed premises per year for use or consumption, but not for  
 22 resale in any form. A wine-maker's premises license shall allow  
 23 a licensee who concurrently holds a second-class wine-maker's  
 24 license to sell and offer for sale at retail in the premises  
 25 specified in such license up to 100,000 gallons of the  
 26 second-class wine-maker's wine that is made at the second-class  
 27 wine-maker's licensed premises per year for use or consumption  
 28 but not for resale in any form. Upon approval from the State  
 29 Commission, a wine-maker's premises license shall allow the  
 30 licensee to sell and offer for sale at (i) the wine-maker's  
 31 licensed premises and (ii) at up to 2 additional locations for  
 32 use and consumption and not for resale. Each location shall  
 33 require additional licensing per location as specified in  
 34 Section 5-3 of this Act.

35 (j) An airplane license shall permit the licensee to import  
 36 alcoholic liquors into this State from any point in the United



1 States outside this State and to store such alcoholic liquors  
2 in this State; to make wholesale purchases of alcoholic liquors  
3 directly from manufacturers, foreign importers, distributors  
4 and importing distributors from within or outside this State;  
5 and to store such alcoholic liquors in this State; provided  
6 that the above powers may be exercised only in connection with  
7 the importation, purchase or storage of alcoholic liquors to be  
8 sold or dispensed on an airplane; and provided further, that  
9 airplane licensees exercising the above powers shall be subject  
10 to all provisions of Article VIII of this Act as applied to  
11 importing distributors. An airplane licensee shall also permit  
12 the sale or dispensing of alcoholic liquors on any passenger  
13 airplane regularly operated by a common carrier in this State,  
14 but shall not permit the sale for resale of any alcoholic  
15 liquors to any licensee within this State. A single airplane  
16 license shall be required of an airline company if liquor  
17 service is provided on board aircraft in this State. The annual  
18 fee for such license shall be as determined in Section 5-3.

19 (k) A foreign importer's license shall permit such licensee  
20 to purchase alcoholic liquor from Illinois licensed  
21 non-resident dealers only, and to import alcoholic liquor other  
22 than in bulk from any point outside the United States and to  
23 sell such alcoholic liquor to Illinois licensed importing  
24 distributors and to no one else in Illinois; provided that the  
25 foreign importer registers with the State Commission every  
26 brand of alcoholic liquor that it proposes to sell to Illinois  
27 licensees during the license period and provided further that  
28 the foreign importer complies with all of the provisions of  
29 Section 6-9 of this Act with respect to registration of such  
30 Illinois licensees as may be granted the right to sell such  
31 brands at wholesale.

32 (l) (i) A broker's license shall be required of all persons  
33 who solicit orders for, offer to sell or offer to supply  
34 alcoholic liquor to retailers in the State of Illinois, or who  
35 offer to retailers to ship or cause to be shipped or to make  
36 contact with distillers, rectifiers, brewers or manufacturers

1 or any other party within or without the State of Illinois in  
2 order that alcoholic liquors be shipped to a distributor,  
3 importing distributor or foreign importer, whether such  
4 solicitation or offer is consummated within or without the  
5 State of Illinois.

6 No holder of a retailer's license issued by the Illinois  
7 Liquor Control Commission shall purchase or receive any  
8 alcoholic liquor, the order for which was solicited or offered  
9 for sale to such retailer by a broker unless the broker is the  
10 holder of a valid broker's license.

11 The broker shall, upon the acceptance by a retailer of the  
12 broker's solicitation of an order or offer to sell or supply or  
13 deliver or have delivered alcoholic liquors, promptly forward  
14 to the Illinois Liquor Control Commission a notification of  
15 said transaction in such form as the Commission may by  
16 regulations prescribe.

17 (ii) A broker's license shall be required of a person  
18 within this State, other than a retail licensee, who, for a fee  
19 or commission, promotes, solicits, or accepts orders for  
20 alcoholic liquor, for use or consumption and not for resale, to  
21 be shipped from this State and delivered to residents outside  
22 of this State by an express company, common carrier, or  
23 contract carrier. This Section does not apply to any person who  
24 promotes, solicits, or accepts orders for wine as specifically  
25 authorized in Section 6-29 of this Act.

26 A broker's license under this subsection (1) shall not  
27 entitle the holder to buy or sell any alcoholic liquors for his  
28 own account or to take or deliver title to such alcoholic  
29 liquors.

30 This subsection (1) shall not apply to distributors,  
31 employees of distributors, or employees of a manufacturer who  
32 has registered the trademark, brand or name of the alcoholic  
33 liquor pursuant to Section 6-9 of this Act, and who regularly  
34 sells such alcoholic liquor in the State of Illinois only to  
35 its registrants thereunder.

36 Any agent, representative, or person subject to

1 registration pursuant to subsection (a-1) of this Section shall  
2 not be eligible to receive a broker's license.

3 (m) A non-resident dealer's license shall permit such  
4 licensee to ship into and warehouse alcoholic liquor into this  
5 State from any point outside of this State, and to sell such  
6 alcoholic liquor to Illinois licensed foreign importers and  
7 importing distributors and to no one else in this State;  
8 provided that said non-resident dealer shall register with the  
9 Illinois Liquor Control Commission each and every brand of  
10 alcoholic liquor which it proposes to sell to Illinois  
11 licensees during the license period; and further provided that  
12 it shall comply with all of the provisions of Section 6-9  
13 hereof with respect to registration of such Illinois licensees  
14 as may be granted the right to sell such brands at wholesale.  
15 Notwithstanding any provision in this Act to the contrary, a  
16 non-resident dealer's licensee that meets the qualifications  
17 for licensure as a first-class wine-maker's licensee, other  
18 than the requirement that he or she be located in Illinois, may  
19 manufacture, store, and sell wine in the same manner as a  
20 first-class wine-maker's licensee. Notwithstanding any  
21 provision in this Act to the contrary, a non-resident dealer's  
22 licensee that meets the qualifications for licensure as a  
23 second-class wine-maker's licensee, other than the requirement  
24 that he or she be located in Illinois, may manufacture, store,  
25 and sell wine in the same manner as a second-class wine-maker's  
26 licensee.

27 (n) A brew pub license shall allow the licensee to  
28 manufacture beer only on the premises specified in the license,  
29 to make sales of the beer manufactured on the premises to  
30 importing distributors, distributors, and to non-licensees for  
31 use and consumption, to store the beer upon the premises, and  
32 to sell and offer for sale at retail from the licensed  
33 premises, provided that a brew pub licensee shall not sell for  
34 off-premises consumption more than 50,000 gallons per year.

35 (o) A caterer retailer license shall allow the holder to  
36 serve alcoholic liquors as an incidental part of a food service

1 that serves prepared meals which excludes the serving of snacks  
2 as the primary meal, either on or off-site whether licensed or  
3 unlicensed.

4 (p) An auction liquor license shall allow the licensee to  
5 sell and offer for sale at auction wine and spirits for use or  
6 consumption, or for resale by an Illinois liquor licensee in  
7 accordance with provisions of this Act. An auction liquor  
8 license will be issued to a person and it will permit the  
9 auction liquor licensee to hold the auction anywhere in the  
10 State. An auction liquor license must be obtained for each  
11 auction at least 14 days in advance of the auction date.

12 (q) A special use permit license shall allow an Illinois  
13 licensed retailer to transfer a portion of its alcoholic liquor  
14 inventory from its retail licensed premises to the premises  
15 specified in the license hereby created, and to sell or offer  
16 for sale at retail, only in the premises specified in the  
17 license hereby created, the transferred alcoholic liquor for  
18 use or consumption, but not for resale in any form. A special  
19 use permit license may be granted for the following time  
20 periods: one day or less; 2 or more days to a maximum of 15 days  
21 per location in any 12 month period. An applicant for the  
22 special use permit license must also submit with the  
23 application proof satisfactory to the State Commission that the  
24 applicant will provide dram shop liability insurance to the  
25 maximum limits and have local authority approval.

26 (Source: P.A. 91-357, eff. 7-29-99; 92-105, eff. 1-1-02;  
27 92-378, eff. 8-16-01; 92-651, eff. 7-11-02; 92-672, eff.  
28 7-16-02.)

29 Section 99. Effective date. This Act takes effect upon  
30 becoming law.