

Brew Pubs and Craft Brewers

This Act is designed to enable small companies that manufacture beer to access the marketplace and develop a customer base without impairing the integrity of a state's system to regulate selling and distributing beer. It does this by creating a legal pathway for small brewers to self-distribute some of their beer in a state with a tightly-controlled beer distribution system such as Illinois'.

The bill defines "brew pub" and "craft brewer" and sets criteria to enable brew pubs to sell beer manufactured by craft brewers. It also enables a brew pub licensee to simultaneously hold a craft brewer license.

This draft is excerpted from a 2011 Illinois law.

Submitted as:

Illinois

[Illinois Public Act 097-0005](#)

Status: Enacted into law in 2011.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as "The Small Brewers Act."
2

3 Section 2. [*Definitions.*] As used in this Act:

4 (A) "Brew Pub" means a person who is licensed under [insert citation], manufactures beer
5 only at a designated premises to make sales to importing distributors, distributors, and to non-
6 licensees for use and consumption only, who stores beer at the designated premises, and who is
7 allowed to sell at retail from the licensed premises, provided that a brew pub licensee shall not sell
8 for off-premises consumption more than [50,000] gallons per year.

9 (B) "Craft Brewer" means a licensed brewer under [insert citation] or licensed non-resident
10 dealer who manufactures up to [465,000] gallons of beer per year and who may make sales and
11 deliveries to importing distributors and distributors and to retail licensees in accordance with the
12 conditions set forth in this Act and under [insert citation].
13

14 Section 3. [*Brew Pub and Craft Brewer Licenses; Restrictions and Exemptions.*]

15 (A) A brew pub license shall allow the licensee:

16 (1) To manufacture beer only on the premises specified in the license,

17 (2) To make sales of the beer manufactured on the premises or, with the approval of
18 the [state liquor commission], beer manufactured on another brew pub licensed premises that is
19 substantially owned and operated by the same licensee to importing distributors, distributors, and to
20 non-licensees for use and consumption,

21 (3) To store the beer upon the premises, and

22 (4) To sell and offer for sale at retail from the licensed premises, provided that a brew
23 pub licensee shall not sell for off-premises consumption more than [50,000] gallons per year.

24 (B) A person who holds a brew pub license may simultaneously hold a craft brewer license if
25 they otherwise qualify for the craft brewer license and the craft brewer license is for a location
26 separate from the brew pub's licensed premises. A brew pub license shall permit a person who has
27 received prior approval from the [state liquor commission] to [annually] transfer no more than a total

28 of [50,000] gallons of beer manufactured on premises to all other licensed brew pubs that are
29 substantially owned and operated by the same person.

30 (C) (1) A craft brewer licensee, who must also be either a licensed brewer or licensed
31 non-resident dealer and annually manufacture less than [465,000] gallons of beer, may apply to the
32 [state liquor commission] for a self-distribution exemption to allow the sale of not more than
33 [232,500] gallons of the craft brewer's beer to retail licensees per year. In the application, which
34 shall be sworn under penalty of perjury, the craft brewer licensee shall state:

35 (a) The date it was established;

36 (b) Its volume of beer manufactured and sold for each year since its
37 establishment;

38 (c) Its efforts to establish distributor relationships;

39 (d) That a self-distribution exemption is necessary to facilitate the marketing
40 of its beer; and

41 (e) That it will comply with the alcoholic beverage and revenue laws of the
42 United States, this state as defined under [insert citation], and any other state where it is licensed.

43 (2) Any application submitted shall be posted on the [state liquor commission's]
44 website at least [45] days prior to action by the [state liquor commission]. The [state liquor
45 commission] shall approve the application for a self-distribution exemption if the craft brewer
46 licensee:

47 (a) Is in compliance with the state, revenue, and alcoholic beverage laws
48 under [insert citation];

49 (b) Is not a member of any affiliated group that manufactures more than
50 [465,000] gallons of beer per annum or produces any other alcoholic beverages;

51 (c) Shall not annually manufacture for sale more than [465,000] gallons of
52 beer; and

53 (d) Shall not annually sell more than [232,500] gallons of its beer to retail
54 licensees.

55 (3) A self-distribution exemption holder shall [annually] certify to the [state liquor
56 commission] its manufacture of beer during the previous [12] months and its anticipated
57 manufacture and sales of beer for the next [12] months. The [state liquor commission] may fine,
58 suspend, or revoke a self-distribution exemption after a hearing if it finds that the exemption holder
59 has made a material misrepresentation in its application, violated a revenue or alcoholic beverage
60 law of this state, exceeded the manufacture of [465,000] gallons of beer in any [calendar year] or
61 became part of an affiliated group manufacturing more than [465,000] gallons of beer or any other
62 alcoholic beverage.

63 (D) The [state liquor commission] shall issue rules and regulations governing self-
64 distribution exemptions consistent with this Act.

65 (E) Nothing in this Act shall prohibit a self-distribution exemption holder from entering into
66 or simultaneously having a distribution agreement with a licensed importing distributor or a
67 distributor. If a self-distribution exemption holder enters into a distribution agreement and has
68 assigned distribution rights to an importing distributor or distributor, then the self-distribution
69 exemption holder's distribution rights in the assigned territories shall cease in a reasonable time not
70 to exceed [60] days.

71
72 Section 4. [*Severability.*] [Insert severability clause.]

73
74 Section 5. [*Repealer.*] [Insert repealer clause.]

75
76 Section 6. [*Effective Date.*] [Insert effective date.]