



# Board of Commissioners of Cook County

118 North Clark Street  
Chicago, IL

## Legislation Text

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### PROPOSED ORDINANCE AMENDMENT

#### ALCOHOLIC BEVERAGE TAX

NOW THEREFORE BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 74 - Taxation, Article IX. Alcoholic Beverage Tax, Sections 74-350 through 74-389 be amended as follows:

#### ARTICLE IX. ALCOHOLIC BEVERAGE TAX

##### Sec. 74-350. Short title.

This Article shall be known and may be cited as the Cook County Retail Sale of Alcoholic Beverages Tax Ordinance.

##### Sec. 74-351. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*Alcohol* means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. The term does not include denatured alcohol or wood alcohol.

*Alcoholic beverage* includes alcohol spirits, wine and beer and any liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and capable of being consumed as a beverage by a human being. The provisions of this Article shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated thereunder, nor to any liquid or solid containing one-half of one percent or less of alcohol by volume.

*Beer* means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager, beer, porter and the like.

*Brewery or Brewpub* means an establishment where beer is brewed or manufactured and stored on the premises and can be served in an adjoining restaurant or tasting room.

*Department* means the Department of Revenue.

*Distillery* means an establishment that distills, ferments, brews, makes, mixes, concocts, processes, blends, bottles or fills an original package with any alcoholic liquor and can be tasted or purchased on the premises.

*Person* means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

*Retail alcoholic beverage dealer* means any person who engages in the business of selling alcoholic beverages in the County to a purchaser for use or consumption, and not for resale in any form.

*Sale, resale and selling* mean any transfer of ownership or possession or both, exchange or barter, conditional or

otherwise, in any manner or by any means whatsoever for a valuable consideration.

*Spirits* means any beverage which contains alcohol obtained by distillation, mixed with water or other substances in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

Tasting room means a room accessory to a brewery, brewpub, distillery, winery or other establishment where alcohol is created, fermented, brewed, processed, mixed, or blended and available on the premises for sampling and, or purchase.

*Wholesale alcoholic beverage dealer* means any person who engages in the business of selling or supplying alcoholic beverages to any person for resale in the County.

*Wine* means any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as above defined.

Winery means an establishment where wine is made by fermentation and fortified by the addition of alcohol or spirits and available for purchase or sampling on the premises.

#### **Sec. 74-352. Tax imposed.**

- (a) A tax is hereby imposed on the retail sale in the County of all alcoholic beverages. Such tax is to be paid by the purchaser, and nothing in this Article shall be construed to impose a tax upon the occupation of retail or wholesale alcoholic beverage dealers, breweries, brewpubs, distilleries, or wineries. This tax shall be levied according to the following schedule:
- (1) Alcoholic beverages other than beer, containing 14 percent or less alcohol by volume, a tax at the rate of \$0.24 per gallon or the pro rata portion thereof.
  - (2) Alcoholic beverages containing more than 14 percent and less than 20 percent alcohol by volume, a tax at the rate of \$0.45 per gallon or the pro rata portion thereof.
  - (3) Alcoholic beverages containing 20 percent or more alcohol by volume, a tax at the rate of \$2.50 per gallon or the pro rata portion thereof.
  - (4) Beer, a tax at the rate of \$0.09 per gallon or the pro rata portion thereof.
- (b) The ultimate incidence of and liability for payment of the tax levied in this Article is to be borne by the consumer of the alcoholic beverages.
- (c) It shall be deemed a violation of this Article for a retail alcoholic beverage dealer, and/or any brewery, brewpub, distillery, or winery selling alcoholic beverages at retail, to fail to include the tax imposed in this Article in the sale price of the alcoholic beverage or to otherwise absorb such tax. The tax levied in this Article shall be in addition to any and all other taxes.
- (d) Except as otherwise provided ~~provisions are made~~ in this Article for the collection of the tax levied in this Article upon the sale of alcoholic beverages in the possession of retail dealers of alcoholic beverages on the effective date of the ordinance from which this Article is derived, the tax levied in this Article shall be collected by each wholesale dealer of alcoholic beverages who sells alcoholic beverages to a retail dealer of alcoholic beverages doing business in the County.
- (e) Any wholesale alcoholic beverage dealer who shall pay the tax levied by this Article to the Department shall collect the tax from any retail alcoholic beverage dealer to whom the sale of the alcoholic beverages is made, and

any retail alcoholic beverage dealer shall in turn then collect the tax from the purchaser of the alcoholic beverages. The tax shall be paid to the person required to collect it as trustee for and on account of the County.

- (f) Except as otherwise provided in this article, the tax levied in this Article shall be collected by each brewery, brewpub, distillery, and winery upon the sale of alcoholic beverages to a retail alcoholic beverage dealer and/or upon sale of alcoholic beverages at retail to a purchaser. The retail alcoholic beverage dealer shall in turn then collect the tax from the purchaser of the alcoholic beverages.

### Sec. 74-353. Exceptions.

The tax imposed by this Article shall not apply to sales of alcoholic beverages wherein the purchaser is a passenger on an interstate carrier, nor shall this tax apply to the extent it would violate the United States Constitution or the Constitution of the State of Illinois. Further, the tax levied in this Article shall not apply to wine intended for use and used by any church or religious organization for sacramental purposes, provided that such wine shall be purchased legally under the laws of Illinois and the United States; but no exemption from this tax is permitted with respect to wine sold to private persons for such purposes.

The tax imposed by this Article shall not apply to sales of alcoholic beverages wherein:

- (a) imposition of the tax would violate the United States Constitution or the Constitution of the State of Illinois;
- (b) the purchaser is a passenger on an interstate carrier;
- (c) the sale is for wine intended for use and used by any church or religious organization for sacramental purposes, provided that such wine shall be purchased legally under the laws of Illinois and the United States, but no exemption from this tax is permitted with respect to wine sold to private persons for such purposes;
- (d) the seller is a registered wholesale alcoholic beverage dealer, brewery, brewpub, distillery, and/or winery, and the sale is to:
- (1) another wholesale alcoholic beverage dealer, brewery, brewpub, distillery, and/or winery registered with the Department;
  - (2) another wholesale alcoholic beverage dealer, retail alcoholic beverage dealer, brewery, brewpub, distillery, and/or winery where the seller or its agent delivers the alcoholic beverage to a location outside of the County;
  - (3) the United States of America, the State, or their other instrumentalities.

### Sec. 74-354. Wholesaler and retailer registration.

- (a) Any wholesaler who engages in the business of selling alcoholic beverages in the County must register with the Department, in accordance with procedures prescribed by the Department prior to engaging in the business of supplying or selling alcoholic beverages for resale, use or consumption in the County.
- (b) Wholesale alcoholic beverage dealers shall file each month with the Department a report of sales of alcoholic beverages in such form as prescribed and furnished by the Department. Such report of sales must be ~~mailed in sufficient time to be postmarked~~ filed electronically or as otherwise directed by the Department on or before the 20th day from the last day of the month for which the return is due. Each report of sales of alcoholic beverages shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made electronically and/or by other payment method payable to the County Collector. Registered wholesale alcoholic beverage dealers must file a monthly return even if no tax is due.

- (e) Wholesale and retail alcoholic beverage dealers shall file an annual informational return by March 20th for the previous calendar year; the first annual informational return will be due March 20, 2018. Wholesalers must list the entities they sold alcoholic beverages to along with the types and amounts of alcoholic beverages sold. Retailers must list the entities they purchased alcoholic beverages from along with the types and amounts of alcoholic beverages purchased. Such return must be filed on a form prescribed and furnished by the Department.
- (c) Any brewery, brewpub, distillery, and/or winery who engages in the business of selling alcoholic beverages in the County must register with the Department, in accordance with procedures prescribed by the Department prior to engaging in the business of supplying or selling alcoholic beverages for resale, use or consumption in the County.
- (d) Breweries, brewpubs, distilleries, and/or wineries shall file each month with the Department a report(s) of sales of alcoholic beverages in such form as prescribed and furnished by the Department. Such report(s) of sales must be submitted electronically or as otherwise directed by the Department in accordance with subsections (1) and (2) below. The appropriate amount of tax applicable to the sales reported shall be remitted electronically and/or by other payment method payable to the County Collector in accordance with subsections (1) and (2) below. Breweries, brewpubs, distilleries, and/or wineries must file a monthly return even if no tax is due.
- (1) A report of sales of alcoholic beverages sold to any retail alcoholic beverage dealer, brewery, brewpub, distillery, and/or winery must be filed with the Department and remittance of the appropriate amount of tax must be made to the Department on or before the 20th day from the last day of the month for which the return is due.
- (2) A report of sales of alcoholic beverages sold to any purchaser at retail must be filed with the Department and remittance of the appropriate amount of tax must be made to the Department on or before the 20<sup>th</sup> day from the last day of the month in which the alcoholic beverages were sold at retail.
- (de) A retail alcoholic beverages dealer who receives alcoholic beverages upon which no tax has been collected by the distributor or supplier shall file a return with the Department, electronically or as otherwise directed by the Department, and remit the tax directly to the Department on or before the 20th day of the month following the month in which the alcoholic beverages were received.
- (ef) The tax required in this Article to be collected by any wholesale alcoholic beverages dealer, brewery, brewpub, distillery, and/or winery pursuant to this Article shall constitute a debt owed by the wholesale alcoholic beverages dealer, brewery, brewpub, distillery, and/or winery to the County.
- (fg) Retailers shall register and provide information as provided by rules and regulations promulgated by the Department of Revenue.

#### **Sec. 74-355. Additional to other taxes.**

The tax imposed by this Article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

#### **Sec. 74-356. Documents; books; records.**

- (a) It shall be the duty of every wholesale ~~and retail~~ alcoholic beverage dealer, brewery, brewpub, distillery, and winery to keep and maintain accurate documents, books and records used to process taxable and nontaxable sales and purchase transactions from start to completion, and make them available for inspection, audit, or copying during regular business hours. These documents, books and records shall be kept for the taxable time period as stated in the statute of limitations section of the Uniform Penalties, Interest and Procedures Ordinance, Article III, Section 34-60 et seq.

(b) It shall be the duty of every retail alcoholic beverage dealer to keep and maintain accurate documents, books and records for every alcoholic beverage purchased by the retail alcoholic beverage dealer and to make them available for inspection, audit, or copying during regular business hours. These documents, books and records shall be kept on the retail premises for a period of 90 days. Documents, books and records shall be kept by wholesale and retail alcoholic beverages dealers, for the taxable time period as listed in the statute of limitations section of the Uniform Penalties, Interest and Procedures Ordinance, Article III Section 34-60 et seq.

**Sec. 74-357. Tax assessment penalties and interest.**

Cook County Code of Ordinances, Article III, Chapter 34, Uniform Penalties, Interest and Procedures Ordinance shall apply to violations of this Ordinance.

**Sec. 74-358. Seizures.**

Whenever any duly authorized representative of the Department discovers any alcoholic beverages subject to the tax levied in this Article and upon which the tax has not been paid in accordance with provisions of this Article, such representative is hereby authorized and empowered forthwith to seize and take possession of such alcoholic beverages, which shall be deemed to be forfeited to the County. Such seizure shall not be deemed to relieve any person from fine or imprisonment provided in this Article for violation of any provision of this Article.

**Sec. 74-359. Violation penalties.**

Any person determined to have violated this Article, as amended, shall be subject to a fine of \$1,000.00 for the first offense, and a fine of \$2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this Article for any person to knowingly furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this Article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

**Sec. 74-360. Reserved.**

**Sec. 74-361. Application of uniform penalties, interest and procedures ordinance.**

Whenever not inconsistent with the provisions of this Article or whenever this Chapter is silent, the provisions of the uniform penalties, interest and procedures ordinance, Article III, Chapter 34 of the Cook County Code of Ordinances shall apply and supplement this Article.

**Sec. 74-362. Rulemaking.**

The Department shall prescribe reasonable rules, definitions, and regulations to carry out the duties imposed upon it by this Article. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices in the wholesale and retail liquor industry, for collection and remittance of the tax levied in this Article upon the consumer of alcoholic beverages.

**Secs. 74-363-74-389. Reserved.**

**Effective date:** This ordinance shall be in effect immediately upon adoption.