



# House of Representatives

General Assembly

**File No. 244**

January Session, 2003

Substitute House Bill No. 6584

*House of Representatives, April 8, 2003*

The Committee on General Law reported through REP. FOX of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING CHANGES IN OWNERSHIP OF RETAIL LIQUOR PERMIT PREMISES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 30-48 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) No backer or permittee of one permit class shall be a backer or  
4 permittee of any other permit class except in the case of any class of  
5 airport, railroad, airline and boat permits, and except that: (1) A backer  
6 of a hotel or restaurant permit may be a backer of both such classes; (2)  
7 a holder or backer of a manufacturer permit for a brew pub, a  
8 restaurant permit or a cafe permit may be a holder or backer of any  
9 other or all of such classes; (3) a holder or backer of a restaurant permit  
10 may be a holder or backer of a bowling establishment permit; (4) a  
11 backer of a restaurant permit may be a backer of a coliseum permit or a  
12 coliseum concession permit, or both, when such restaurant is within a  
13 coliseum; (5) a backer of a hotel permit may be a backer of a coliseum

14 permit or a coliseum concession permit, or both; (6) a backer of a  
15 coliseum permit may be a backer of a coliseum concession permit; (7) a  
16 backer of a coliseum concession permit may be a backer of a coliseum  
17 permit; (8) a backer of a grocery store beer permit may be a backer of a  
18 package store permit if such was the case on or before May 1, 1996; (9)  
19 a backer of a university permit may be a backer of a nonprofit theater  
20 permit; (10) subject to the discretion of the department, a backer of a  
21 permit provided for in section 30-33b, may be a backer of any other  
22 retail on-premise consumption permit, including those permits  
23 provided for in section 30-33b; (11) a backer of a nonprofit theater  
24 permit may be a holder or backer of a hotel permit; (12) a holder or  
25 backer of a restaurant permit may be a holder or backer of a special  
26 outing facility permit; and (13) a backer of a concession permit may be  
27 a backer of a coliseum permit or a coliseum concession permit, or both.  
28 Any person may be a permittee of more than one permit. A person  
29 may be a permittee under a permit provided for in section 30-33b and  
30 a backer of any other retail on-premise consumption permit, including  
31 those permits provided for in section 30-33b. The operator of a racing  
32 or jai alai exhibition with pari-mutuel betting licensed by the Gaming  
33 Policy Board may be a backer of any permit provided for in section 30-  
34 33b. No holder of a manufacturer permit for a brew pub and no spouse  
35 or child of such holder may be a holder or backer of more than three  
36 restaurant permits or cafe permits.

37 (b) No permittee or backer thereof and no employee or agent of  
38 such permittee or backer shall borrow money or receive credit in any  
39 form for a period in excess of thirty days, directly or indirectly, from  
40 any manufacturer permittee, or backer thereof, or from any wholesaler  
41 permittee, or backer thereof, of alcoholic liquor or from any member of  
42 the family of such manufacturer permittee or backer thereof or from  
43 any stockholder in a corporation manufacturing or wholesaling such  
44 liquor, and no manufacturer permittee or backer thereof or wholesaler  
45 permittee or backer thereof or member of the family of either of such  
46 permittees or of any such backer, and no stockholder of a corporation  
47 manufacturing or wholesaling such liquor shall lend money or  
48 otherwise extend credit, directly or indirectly, to any such permittee or

49 backer thereof or to the employee or agent of any such permittee or  
50 backer. A wholesaler permittee or backer, or a manufacturer permittee  
51 or backer, that has not received payment in full from a retailer  
52 permittee or backer within thirty days after the date such credit was  
53 extended to such retailer or backer or to an employee or agent of any  
54 such retailer or backer, shall give a written notice of obligation to such  
55 retailer within the five days following the expiration of the thirty-day  
56 period of credit. The notice of obligation shall state: The amount due;  
57 the date credit was extended; the date the thirty-day period ended, and  
58 that the retailer is in violation of this section. A retailer who disputes  
59 the accuracy of the "notice of obligation" shall, within the ten days  
60 following the expiration of the thirty-day period of credit, give a  
61 written response to notice of obligation to the department and give a  
62 copy to the wholesaler or manufacturer who sent the notice. The  
63 response shall state the retailer's basis for dispute and the amount, if  
64 any, admitted to be owed for more than thirty days; the copy  
65 forwarded to the wholesaler or manufacturer shall be accompanied by  
66 the amount admitted to be due, if any, and such payment shall be  
67 made and received without prejudice to the rights of either party in  
68 any civil action. Upon receipt of the retailer's response, the chairman of  
69 the commission or [his] such chairman's designee shall conduct an  
70 informal hearing with the parties being given equal opportunity to  
71 appear and be heard. If the chairman or [his] such chairman's designee  
72 determines that the notice of obligation is accurate, the department  
73 shall forthwith issue an order directing the wholesaler or manufacturer  
74 to promptly give all manufacturers and wholesalers engaged in the  
75 business of selling alcoholic liquor to retailers in this state, a "notice of  
76 delinquency". The notice of delinquency shall identify the delinquent  
77 retailer, and state the amount due and the date of the expiration of the  
78 thirty-day credit period. No wholesaler or manufacturer receiving a  
79 notice of delinquency shall extend credit by the sale of alcoholic liquor  
80 or otherwise to such delinquent retailer until after the manufacturer or  
81 wholesaler has received a "notice of satisfaction" from the sender of the  
82 notice of delinquency. If the chairman or [his] such chairman's  
83 designee determines that the notice of obligation is inaccurate, the

84 department shall forthwith issue an order prohibiting a notice of  
85 delinquency. The party for whom the determination by the chairman  
86 or [his] such chairman's designee was adverse, shall promptly pay to  
87 the department a part of the cost of the proceedings as determined by  
88 the chairman or [his] such chairman's designee, which shall not be less  
89 than fifty dollars. The department may suspend or revoke the permit  
90 of any permittee who, in bad faith, gives an incorrect notice of  
91 obligation, an incorrect response to notice of obligation, or an  
92 unauthorized notice of delinquency. If the department does not receive  
93 a response to the notice of obligation within such ten-day period, the  
94 delinquency shall be deemed to be admitted and the wholesaler or  
95 manufacturer who sent the notice of obligation shall, within the three  
96 days following the expiration of such ten-day period, give a notice of  
97 delinquency to the department and to all wholesalers and  
98 manufacturers engaged in the business of selling alcoholic liquor to  
99 retailers in this state. A notice of delinquency identifying a retailer who  
100 does not file a response within such ten-day period shall have the same  
101 effect as a notice of delinquency given by order of the chairman or [his]  
102 such chairman's designee. A wholesaler permittee or manufacturer  
103 permittee that has given a notice of delinquency and that receives full  
104 payment for the credit extended, shall, within three days after the date  
105 of full payment, give a notice of satisfaction to the department and to  
106 all wholesalers and manufacturers to whom a notice of delinquency  
107 was sent. The prohibition against extension of credit to such retailer  
108 shall be void upon such full payment. The department may revoke or  
109 suspend any permit for a violation of this section. An appeal from an  
110 order of revocation or suspension issued in accordance with this  
111 section may be taken in accordance with section 30-60.

112 (c) If there is a proposed change or change in ownership of a retail  
113 permit premises, no application for a permit shall be approved until  
114 the applicant files with the department [:(1) An affidavit executed by  
115 the predecessor permittee or backer listing all unpaid obligations of the  
116 predecessor for the purchase of alcoholic liquor at such permit  
117 premises and (2)] an affidavit executed by the applicant stating that all  
118 [such listed] obligations of the predecessor permittee for the purchase

119 of alcoholic liquor at such permit premises have been paid [, unless,  
 120 after hearing, the department finds that such predecessor abandoned  
 121 the premises prior to the filing of the application and finds that such  
 122 predecessor did not receive any consideration, direct or indirect, for  
 123 his abandonment] or that such applicant did not receive direct or  
 124 indirect consideration from the predecessor permittee. If a wholesaler  
 125 permittee alleges the applicant received direct or indirect consideration  
 126 from the predecessor permittee or that there remains outstanding  
 127 liquor obligations, such wholesaler permittee may file with the  
 128 department an affidavit, along with supporting documentation to  
 129 establish receipt of such consideration or outstanding liquor  
 130 obligations. The commissioner, in the commissioner's sole discretion,  
 131 shall determine whether a hearing is warranted on such allegations.

132 (d) A permittee may file a designation of an authorized agent with  
 133 the department to issue or receive all notices or documents provided  
 134 for in this section. The permittee shall be responsible for the issuance  
 135 or receipt of such notices or documents by the agent.

136 (e) The period of credit permitted under this section shall be  
 137 calculated as the time elapsing between the date of receipt of the  
 138 alcoholic liquors by the purchaser and the date of full legal discharge  
 139 of the purchaser through the payment of cash or its equivalent from all  
 140 indebtedness arising from the transaction except that, if the last day for  
 141 payment falls on a Saturday, Sunday or legal holiday, the last day for  
 142 payment shall then be the next business day.

This act shall take effect as follows:	
Section 1	October 1, 2003

**GL**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Type</b>	<b>FY 04 \$</b>	<b>FY 05 \$</b>
Consumer Protection, Dept.	GF - None	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

Concerning a change in ownership of a retail liquor establishment, current law requires the Department of Consumer Protection (DCP) commissioner to hold a hearing after an applicant submits an affidavit with the information required by the commissioner. This bill instead requires the commissioner to evaluate the affidavits submitted to him by the applicant and the wholesaler and make a determination as to whether or not a hearing is warranted. Thus, passage of this bill will minimally decrease some of the workload of the department.

**OLR Bill Analysis**

sHB 6584

**AN ACT CONCERNING CHANGES IN OWNERSHIP OF RETAIL LIQUOR PERMIT PREMISES**

**SUMMARY:**

This bill eliminates a requirement for the former permittee of a retail establishment to file an affidavit with the Department of Consumer Protection (DCP) in connection with a new owner permit application. This affidavit must list all outstanding bills from liquor wholesalers.

The bill modifies the information that the new owner applicant must provide to DCP in an affidavit with the permit application. Under current law the affidavit must state that all listed obligations have been paid unless, after a hearing, DCP finds that the former permittee abandoned the business and did not receive any payment or other consideration for doing so. The bill instead requires the applicant to file an affidavit stating either that (1) all of the former permittee's bills have been paid or (2) he did not receive direct or indirect payment or other consideration from the former permittee. The bill authorizes a liquor wholesaler who alleges that the applicant received payments or other consideration from his predecessor or that there are outstanding bills for liquor to file an affidavit with DCP along with supporting documentation. The bill authorizes DCP to determine whether a hearing is warranted.

EFFECTIVE DATE: October 1, 2003

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 16      Nay 1