



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve an Ordinance Amending Title 5 “Business Licenses and Regulations”, Section 5.08.250 “Regulations Applicable Generally” of the St. Charles Municipal Code
Presenter:	Police Chief Keegan

Please check appropriate box:

<input checked="" type="checkbox"/>	Government Operations (9/8/15)	<input type="checkbox"/>	Government Services
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input type="checkbox"/>	Liquor Commission

Estimated Cost:	<input type="text"/>	Budgeted:	<input type="checkbox"/> YES	<input type="checkbox"/> NO
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If NO, please explain how item will be funded:

Executive Summary:

The Illinois Liquor Commission made changes to the state “Happy Hour” law, Public Act 99-0046 which went into effect on July 15, 2015.

The Liquor Control Commission discussed these changes and made recommendation to keep these laws authorized by the State and to practice this within the City of St. Charles.

This item went before the August 17 Liquor Control Commission and was recommended for approval to move forward to committee (Votes: 3 Ayes; 1 Absent).

Attachments: *(please list)*

FAQs on “Happy Hour” Changes; Chief Keegan’s Memo on this recommendation; Ordinance

Recommendation / Suggested Action *(briefly explain):*

Recommendation to approve an Ordinance Amending Title 5 “Business Licenses and Regulations”, Section 5.08.250 “Regulations Applicable Generally” of the St. Charles Municipal Code.

<i>For office use only:</i>	<i>Agenda Item Number:</i> 6b
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FAQs on "happy hour" changes

Below are some frequently asked questions regarding
Public Act 99-0046 which went into effect on **July 15, 2015**:



Q: Will I be able to offer "happy hour" specials by temporarily reducing the price of drinks at my establishment?

A: **Yes.** This legislation permits licensees to offer discounted drinks for up to **4 hours per day**, and not more than **15 hours per week**. The specified drink promotional period does not have to be for 4 consecutive hours.

Q: What are the additional rules and restrictions on price reductions?

A: Licensees must adhere to the following stipulations on price reductions on drinks:

- Licensee must give notice of the discount of alcohol drinks on the licensee's premises or on their website **7 days prior to the specified drink promotion period.**
- Licensee shall not offer a specified drink promotion period between the hours of **10:00 p.m. and the licensed premise's closing hour.**
- Licensee shall not change the price of an alcoholic drink during a single drink promotion period.

Q: When can I start reducing prices as part of happy hour?

A: No earlier than 7 days after the license holder has given notice of the discount of alcohol drinks at its licensed location or on its website.

Q: Can I provide unlimited drinks for a single price?

A: No. Drink limits are required unless the drinks are part of a meal/party package or private function.

Q: Am I allowed to sell "meal packages" with food and alcohol? What does that entail?

A: **Yes.** "Meal package" means a food & beverage package, which may or may not include entertainment, where the service of alcoholic liquor is an accompaniment to the food, including, but not limited to: a **meal, tour, tasting, or any combination thereof for a fixed price by a retail licensee** or any other licensee operating within a sports facility, restaurant, winery, brewery, or distillery.

Q: Is there a limit on the number of drinks which may be served with a meal package?

A: No. There is no limit to the number of drinks included with a meal package.

Q: What is considered "food" for purposes of a meal package?

A: Any food, including snacks and other so-called "finger food," that is available on the licensed premises as long as the food and alcoholic drinks are sold as a package for a fixed price.

Q: Am I allowed to sell "party packages," such as wristband deals for a private event? What are the regulations?

A: **Yes.** "Party package" means a private party, function, or event for a specific social or business occasion, either arranged by invitation or reservation for a defined number of individuals, that is **not open to the general public and where attendees are served both food and alcohol for a fixed price in a DEDICATED EVENT space.** In order to sell a party package, a business must:

- Offer food in the dedicated event space.
- Limit the party package to no more than 3 hours.
- Distribute wristbands, lanyards, or shirts that designate party package attendees.
- Exclude individuals not participating in the party package from the dedicated event space.

“Happy hour” FAQs (cont’d.)

Q: Is there a limit on the number of drinks which may be served with a party package?

A: No. There is no limit on the number of drinks allowed to be included with a party package.

Q: What is considered “food” for purposes of a party package?

A: Any food, including snacks and other so-called “finger food,” that is available on the licensed premises.

Q: Private functions as defined in the Liquor Control Act (235 ILCS 5/1-3.36) have always been an exception to the prohibition on unlimited drinks; are private functions now limited to 3 hours?

A: No. Private functions such as weddings, private parties, fund-raising functions, etc., where “guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event” (235 ILCS 5/1-3.36) are not subjected to a time limit.

Q: How can alcoholic drinks be sold and served to a customer?

A:

- 1) You may serve two or more drinks to one customer at one time;
- 2) You may not sell two or more drinks for the price of one drink;
- 3) You must increase the price of a drink proportionately to an increase in the volume of the same drink (Example: The price of a 24 ounce draft of Brand X beer must cost twice as much as a 12 ounce draft of Brand X beer).

Q: Can I sell or serve a pitcher, bottle, carafe, bucket, flight, or similar container to one person?

A: Yes.

Q: How does proportionate pricing apply to prices of a pitcher, bottle, carafe, bucket, flight, or similar container?

A: Proportionate pricing applies to individual drinks, not to pitchers, bottles, carafes, buckets, flight or similar containers. As long as a price reduction is not equal to selling 2 or more alcoholic drinks for the price of one, a retailer is free to set any price for a pitcher, bottle, carafe, bucket, flight or similar container.

Q: Can I permit or encourage drinking games or contests at my licensed premises?

A: No.

Q: Can I still offer daily drink specials?

A: Yes, as long as the price of the drink special is listed on the mandatory schedule of drink prices.

Q: May I advertise happy hour, meal packages, and party packages?

A: Yes. Events permitted under the Liquor Control Act may be legally advertised.

Q: May I advertise events and drink specials permitted under the Happy Hour law on social media?

A: Yes. Social media advertising is allowed.

Q: Where can I learn more about “infusions” and its legality in Illinois?

A: For FAQ’s on this subject, [please see the following page](#).

Q: Does the new law mandate that all servers in Illinois be trained and certified?

A: Yes. All alcohol servers and those checking ID’s for alcohol service in on-premise establishments (ie, bars, restaurants, banquet halls) will be required to successfully complete BASSET by a pre-determined date cited in the law. [See page 4 for the schedule](#).

Police Department



Memo

Date: 8/25/2015
To: The Honorable Ray Rogina, Mayor
Mark Koenen, City Administrator
From: James Keegan, Chief of Police
Re: Happy Hour (Public Act 9900046)

As you are aware, an ordinance change is being recommended pursuant to changes concerning Illinois' "Happy Hour" law, Public Act 99-0046 which went into effect July 15th, 2015.

This issue was presented to the Liquor Commission on August 17th, and the Commission (an advisory board), voted to stand on the State's changes and monitor said changes with our oversight and guidance.

"St. Charles is a "Home Rule" municipality pursuant to Section 6, Article VII of the Illinois Constitution of 1970. Except as limited by statute, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of public health, safety, morals and welfare; to tax; and to incur debt." In simpler terms, we can be more restrictive than State law, not less restrictive.

Pursuant to discussion at the Liquor Commission meeting and my research into this Public Act, I recommend the City follow the stipulations as outlined in the legislation. Some of the subsections of our current ordinance conflict with state law and are tough to enforce and monitor. Standing on the State's "Happy Hour" laws brings consistency to our enforcement efforts and the understanding of the law with both restaurant and tavern owners/managers alike.

I recommend our ordinance be modified as follows:

5.08.250 Regulations Applicable Generally

N. Happy Hour Regulations.

No licensee shall violate the "happy hour" regulations set forth in 235 ILCS 5/6-28, as amended from time to time. ~~Notwithstanding the foregoing, the following further and more restrictive prohibitions shall apply to all licensees:~~

1. ~~No licensee, employee or agent shall serve more than one (1) drink of alcoholic liquor at one (1) time to one (1) person for consumption by that one (1) person.~~

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~~2. No licensee, employee or agent shall serve more than two (2) drinks of alcoholic liquor at one (1) time to one (1) person for consumption by that one (1) person and one (1) other person; and~~

~~3. No licensee, employee or agent shall serve more than two (2) drinks of alcoholic liquor at one (1) time to one (1) person for consumption by that one (1) person and two (2) or more other persons.~~

Illinois Compiled Statutes (Informational Purposes – not in proposed City Ordinance)

235 ILCS 5/6-28

Sec. 6-28. Prohibited happy hours.

(a) (Blank).

(b) No retail licensee or employee or agent of such licensee shall:

(1) sell more than one drink of alcoholic liquor for the price of one drink of alcoholic liquor;

(2) sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public or as provided in Section 6-28.5 of this Act;

(3) (blank);

(4) increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;

(5) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or

(6) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (1) through (5).

(c) (Blank).

(d) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by this Act. The State Commission may not enforce any trade practice policy or other rule that was not adopted in accordance with the Illinois Administrative Procedure Act. (Source: P.A. 98-571, eff. 8-27-13; 99-46, eff. 7-15-15.)

235 ILCS 5/6-28.5

Sec. 6-28.5. Permitted happy hours and meal packages, party packages, and entertainment packages.

(a) As used in this Section:

"Dedicated event space" means a room or rooms or other clearly delineated space within a retail licensee's premises that is reserved for the exclusive use of party package invitees during the entirety of a party package. Furniture, stanchions and ropes, or other room dividers may be used to clearly delineate a dedicated event space.

"Meal package" means a food and beverage package, which may or may not include entertainment, where the service of alcoholic liquor is an accompaniment to the food, including, but not limited to, a meal, tour, tasting, or any combination thereof for a fixed price by a retail

licensee or any other licensee operating within a sports facility, restaurant, winery, brewery, or distillery.

"Party package" means a private party, function, or event for a specific social or business occasion, either arranged by invitation or reservation for a defined number of individuals, that is not open to the general public and where attendees are served both food and alcohol for a fixed price in a dedicated event space.

(b) A retail licensee may:

- (1) offer free food or entertainment at any time;
- (2) include drinks of alcoholic liquor as part of a meal package;
- (3) sell or offer for sale a party package only if the retail licensee:
 - (A) offers food in the dedicated event space;
 - (B) limits the party package to no more than 3 hours;
 - (C) distributes wristbands, lanyards, shirts, or any other such wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space; and
 - (D) excludes individuals not participating in the party package from the dedicated event space;
- (4) include drinks of alcoholic liquor as part of a hotel package;
- (5) negotiate drinks of alcoholic liquor as part of a hotel package;
- (6) provide room service to persons renting rooms at a hotel;
- (7) sell pitchers (or the equivalent, including, but not limited to, buckets of bottled beer), carafes, or bottles of alcoholic liquor which are customarily sold in such manner, or sell bottles of spirits;
- (8) advertise events permitted under this Section;
- (9) include drinks of alcoholic liquor as part of an entertainment package where the licensee is separately licensed by a municipal ordinance that (A) restricts dates of operation to dates during which there is an event at an adjacent stadium, (B) restricts hours of serving alcoholic liquor to 2 hours before the event and one hour after the event, (C) restricts alcoholic liquor sales to beer and wine, (D) requires tickets for admission to the establishment, and (E) prohibits sale of admission tickets on the day of an event and permits the sale of admission tickets for single events only; and
- (10) discount any drink of alcoholic liquor during a specified time period only if:
 - (A) the price of the drink of alcoholic liquor is not changed during the time that it is discounted;
 - (B) the period of time during which any drink of alcoholic liquor is discounted does not exceed 4 hours per day and 15 hours per week; however, this period of time is not required to be consecutive and may be divided by the licensee in any manner;
 - (C) the drink of alcoholic liquor is not discounted between the hours of 10:00 p.m. and the licensed premises' closing hour; and
 - (D) notice of the discount of the drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least 7 days prior to the specified time.

(b)* A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by this Act. The State Commission may not enforce any trade practice policy or other rule that was not adopted in accordance with the Illinois Administrative Procedure Act.

(c) All licensees affected by this Section must also comply with Sections 6-16, 6-21, and 6-27.1 of this Act.

(Source: P.A. 99-46, eff. 7-15-15.)

*As written in the ILCS

Please see the executive summary, the sample ordinance language, the Illinois Complied statue language, and the handout from the Illinois Liquor Commission for further information. Should you have any additional concerns or questions, please advise.

Thank you in advance for your cooperation in this matter.

City of St. Charles, Illinois
Ordinance No. 2015-M-_____

**An Ordinance Amending Title 5 "Business Licenses and Regulations",
Section 5.08.250 "Regulations Applicable Generally"
of the St. Charles Municipal Code**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, AS FOLLOWS:

SECTION ONE: That Title 5 "Business and Licenses and Regulations", Section 5.08.250 "Regulations Applicable Generally", of the St. Charles Municipal Code, be and is hereby amended as follows:

- N. Happy Hour Regulations.
No licensee shall violate the "happy hour" regulations set forth in 235 ILCS 5/6-28, as amended from time to time.

SECTION TWO: That, after the adoption and approval hereof, this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the City Council of the City of St. Charles, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

SECTION THREE: This Ordinance shall be in full force and effect ten (10) days from and after its passage by a vote of the majority of the corporate authorities now holding office, approval and publication in the manner provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this ____ day of _____, 2015.

PASSED by the City Council of the City of St. Charles, Illinois this ____ day of _____, 2015.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ____ day of _____, 2015.

Raymond P. Rogina, Mayor

ATTEST:

Nancy Garrison, City Clerk

COUNCIL VOTE:

Ayes : _____

Nays : _____

Absent : _____