

RULES – IMPLEMENTATION

MARCH 25, 2020

BUSINESSOWNERS
GENERAL LIABILITY

LI-BP-2020-032
LI-GL-2020-064

ILLINOIS LIQUOR LIABILITY RULE REVISION TO BE IMPLEMENTED

KEY MESSAGE

We are revising rules for CLM Division Six – General Liability and Division Ten – Businessowners relating to Liquor Liability limits in Illinois.

BACKGROUND

Section 6-21(a) of the Liquor Control Act of 1934 (235 ILCS 5/6-21(a)) requires the State of Illinois Comptroller to determine each year the liability limits for causes of action brought under this Act. The Comptroller revises these limits to reflect changes in the Consumer Price Index - U (CPI-U) during the preceding calendar year.

In accordance with this Statute, the Comptroller recently published the 2020 liability limits.

ISO ACTION

We are providing CL-2020-RLIQ1 in which we are revising Rule 45.G.5. and Table 56.B.8. of Division Six – General Liability and Rule 29.B.13.b.(4) of Division Ten – Businessowners to reflect the 2020 liability limits. Refer to the attached document for complete details.

EFFECTIVE DATE

We do not establish an effective date for Businessowners or General Liability rule revisions in Illinois. Each insurer that elects to utilize this revision is responsible for determining its own effective date.

COMPANY ACTION

ISO has not filed this revision.

You must independently determine what revision to make and when to make any revision effective. You are NOT required to file anything with the Insurance Department and you must document your files in case the Insurance Department wishes to review the information at a later date. In all internal correspondence on this revision, you should refer to ISO Revision Designation Number CL-2020-RLIQ1, NOT this circular number. Communications with the regulator concerning a filing affecting multiple lines of business (i.e., CL, PL, AL filing designation) should specify the line(s) of business that you are addressing.

RATING SOFTWARE IMPACT

No new attributes are being introduced with this revision.

POLICYHOLDER NOTIFICATION

If you decide to implement this revision, you should check all applicable laws for the state(s) to which this revision applies, to determine whether or not a specific policyholder notice requirement may apply. Please note that circular [LI-CL-2019-057](#) contains the ISO Guide To Renewals With Changed Conditions For Commercial Lines, which is available only as a guide to assist participating companies in complying with various conditional renewal statutes or regulations, for the major commercial lines of insurance serviced by ISO. The information in the Guide does not necessarily reflect all requirements or exceptions that may apply, and it is not intended as a substitute for your review of all applicable statutes and regulations concerning policyholder notification.

REVISION DISTRIBUTION

We will issue a Notice to Manualholders with an edition date of 9-20 (or the earliest possible subsequent date), along with any new and/or revised manual pages.

REFERENCE(S)

[LI-CL-2019-057](#) (12/10/2019) Revised Lead Time Requirements Listing

ATTACHMENT(S)

Illinois Filing [CL-2020-RLIQ1](#)

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Illinois Liquor Liability Rules Revised

Applicable Lines of Business

This filing applies to the following lines of business:

- ◆ General Liability
- ◆ Businessowners

About This Filing

This filing revises the Illinois exception to various rules addressing Liquor Liability limits in the Commercial Lines Manual (CLM).

Revised Rules

We are revising the following rules:

- ◆ Division Six - General Liability
 - Rule **45**. Liquor Liability Coverage
 - Rule **56**. Increased Limits Tables
- ◆ Division Ten - Businessowners
 - Rule **29**. Endorsements

We have used a format of ~~striking through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes.

Background

Section 6-21(a) of the Liquor Control Act of 1934 (235 ILCS 5/6-21(a)) requires the State of Illinois Comptroller to determine each year the liability limits for causes of action brought under this Act. The Comptroller revises these limits to reflect changes in the Consumer Price Index - U (CPI-U) during the preceding calendar year.

In accordance with this Statute, the Comptroller recently published the 2020 liability limits.

The limit for causes of action involving death, bodily injury or property damage on or after January 20, 2020 was increased, for each person incurring damages, to \$71,696.18. The limit for causes of action involving either loss of means of support or loss of society resulting from the death or injury of any person on or after January 20, 2020 was increased to \$87,628.66.

Explanation of Changes

Under Division Six, we are revising Rule **45.G.5.** and Table **56.B.8.** to reflect the 2020 limits. In the latter rule, the limits are displayed in thousands as \$72 and \$88, respectively. The revised increased limit factors contemplate the actual, not rounded, limits.

Under Division Ten, we are revising Rule **29.B.13.b.(4)** to reflect the same 2020 limits.

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COMMERCIAL LINES MANUAL
DIVISION SIX - GENERAL LIABILITY
ILLINOIS EXCEPTIONS
EXCERPT OF RULE 45.

45. LIQUOR LIABILITY COVERAGE (Subline Code 332)

Paragraph **G.5.** is replaced by the following:

G. Liquor Liability Grades

5. The Liquor Liability Numerical Grade is 3.

Citation of Statute: 235 ILL. COMP. STAT. ANN. Section 5/6-21(a)

Comments:

The statute provides, in part, that a person injured within Illinois, in person or property, by an intoxicated person, has a right of action against a liquor vendor who, by selling or giving liquor causes the intoxication of the intoxicated person. However, the statute also provides:

For all causes of action involving persons injured, killed, or incurring property damage after January 20, 2019, in no event shall the judgment or recovery for injury to the person or property of any person exceed ~~\$70,094.09~~ \$71,696.18 for each person incurring damages, and recovery under this Act for either loss of means of support or loss of society resulting from the death or injury of any person shall not exceed ~~\$85,666.89~~ \$87,628.66.

The "3" designation reflects the fact that the total amount of damages that may be awarded to any person is limited by the statute. However, the Supreme Court of Illinois in *Ryan T. Simmons v. John D. Homatas (On Stage Productions, Inc.)*, 925 N.E.2d 1089 (Ill. 2010) concluded that with respect to a suit against the operator of a bring your own (BYO) establishment, the plaintiff's common law negligence claim(s) were not preempted by the dram shop laws of the state and noted that the operator is not in the business of selling liquor in the state.

COMMERCIAL LINES MANUAL
DIVISION SIX - GENERAL LIABILITY
ILLINOIS EXCEPTIONS
EXCERPT OF RULE 56.

56. INCREASED LIMITS TABLES

Paragraph **B.** is replaced by the following:

B. Tables

The increased limits tables follow.

8. Liquor Liability (Subline Code 332)

The following Liquor Liability increased limit factors are provided for policies covering liquor liability in compliance with 235 ILL. COMP. STAT. ANN. Section 5/6-21(a). These factors are intended to be applied to a \$100/200 Basic Limit rate.

These factors must be referred to company before using.

Limit Per Person BI/Limit Per Person PD/Loss Of Support Per Injured Person/Aggregate*	Factors
\$7472/7472/8688 /200	0.98 0.99
\$7472/7472/8688 /400	0.99 1.00
\$7472/7472/8688 /600	1.00 1.01
\$7472/7472/8688 /1,000	1.01 1.02
* The limits in the chart per person BI and per person PD and loss of support have been rounded from \$70,091.09 71,696.18 and \$85,666.89 87,628.66, respectively, for ease of display.	

Table 56.B.8. Liquor Liability (Subline Code 332) – \$100/200 Basic Limit

COMMERCIAL LINES MANUAL
DIVISION TEN - BUSINESSOWNERS
ILLINOIS EXCEPTIONS
EXCERPT OF RULE 29.

29. ENDORSEMENTS

Paragraph **B.13.b.(4)** is replaced by the following:

b. Liquor Liability Grades

(4) The Liquor Liability Numerical Grade is 3.

Citation of Statute: 235 ILL. COMP. STAT. ANN. Section 5/6-21(a)

Comments:

The statute provides, in part, that a person injured within Illinois, in person or property, by an intoxicated person, has a right of action against a liquor vendor who, by selling or giving liquor causes the intoxication of the intoxicated person. However, the statute also provides:

For all causes of action involving persons injured, killed, or incurring property damage after January 20, 2019~~2020~~, in no event shall the judgment or recovery for injury to the person or property of any person exceed ~~\$70,094.09~~\$71,696.18 for each person incurring damages, and recovery under this Act for either loss of means of support or loss of society resulting from the death or injury of any person shall not exceed ~~\$85,666.89~~\$87,628.66.

The "3" designation reflects the fact that the total amount of damages that may be awarded to any person is limited by the statute. However, the Supreme Court of Illinois in *Ryan T. Simmons v. John D. Homatas (On Stage Productions, Inc.)*, 925 N.E.2d 1089 (Ill. 2010) concluded that with respect to a suit against the operator of a bring your own (BYO) establishment, the plaintiff's common law negligence claim(s) were not preempted by the dram shop laws of the state and noted that the operator is not in the business of selling liquor in the state.