

CHAPTER 113

REAL ESTATE BROKERS' LICENSES

H. F. 59

AN ACT relating to real estate brokers' licenses.

Be It Enacted by the General Assembly of the State of Iowa:

- 1 SECTION 1. Section one hundred seventeen point fifteen (117.15),
 2 Code 1962, is amended by adding at the end thereof the following:
 3 "Every applicant for a license as a real estate broker shall have been
 4 a licensed real estate salesman for a period of at least twelve (12)
 5 months preceding the date of application; or he shall have had ex-
 6 perience substantially equal to that which a licensed real estate sales-
 7 man would ordinarily receive during a period of twelve (12) months,
 8 whether as a former broker or salesman, a manager of real estate, or
 9 otherwise. Notwithstanding the foregoing provisions, if the commis-
 10 sion shall find that any applicant could not acquire employment as a
 11 licensed real estate salesman because of conditions existing in the area
 12 where he resides, then, the foregoing provisions shall be waived by the
 13 commission.
 14 "The foregoing paragraph shall not apply to persons licensed to
 15 practice law in the state of Iowa."

Approved April 5, 1963.

CHAPTER 114

Amended by ch. 115

LIQUOR CONTROL, SALE AND USE

S. F. 437

AN ACT relating to the control, sale, and use of alcoholic beverages and law enforcement with respect to alcoholic beverages.

Be It Enacted by the General Assembly of the State of Iowa:

- 1 SECTION 1. Section one hundred twenty-three point one (123.1),
 2 Code 1962, is hereby amended by striking all after the word "this"
 3 in line thirteen (13) and inserting in lieu thereof the following:
 4 "chapter."
- 1 SEC. 2. Section one hundred twenty-three point five (123.5),
 2 Code 1962, is hereby amended by inserting after the words "Alco-
 3 holic liquor" in line one (1) of subsection five (5) the words "or
 4 'alcoholic beverage'";* also by inserting after the word "License"
 5 in line one (1) of subsection nine (9) the words "'or liquor control
 6 license'"; also by adding the following subsections:
 7 1. "'Air common carrier' means a person engaged in transporting
 8 passengers for hire in interstate or foreign commerce by aircraft and
 9 operating regularly scheduled flights under a certificate of public

*Amended by ch. 115, sec. 1.

10 convenience issued by the civil aeronautics board."

11 2. "'Club' means a corporation or association of individuals, in-
12 corporated or unincorporated, but not including corporations organ-
13 ized for pecuniary profit, which is the owner, lessee, or occupant of a
14 permanent building or part thereof, membership in which entails the
15 prepayment of regular dues and is not operated for a profit other
16 than such profits as would accrue to the entire membership. The
17 licensing authority shall determine whether or not such club shall
18 be entitled to a liquor control license.

19 3. "'Commercial establishment' means a place of business which
20 is at all times equipped with sufficient tables and seats to accommo-
21 date twenty-five (25) persons at one time, and the licensed premises
22 of which conform to the standards and specifications of the commis-
23 sion."

24 4. "'Licensed premises' or 'premises' means all rooms or enclos-
25 ures where alcoholic beverages are sold or consumed under authority
26 of a liquor control license."

27 5. "'Hotel' or 'motel' means a premise or structure licensed by the
28 state department of agriculture and regularly or seasonably kept
29 open in a bona fide manner for the lodging of transient guests, where
30 there is in the same premise or structure an establishment where
31 food is regularly prepared and served and where thirty-five (35) or
32 more sleeping rooms are provided for guests."

1 SEC. 3. Section one hundred twenty-three point sixteen (123.16),
2 Code 1962, is hereby amended by inserting after the word "permits"
3 in line one (1) of subsection seven (7), the words ", liquor control
4 licenses and other"; also by striking the word "and" before the word
5 "licenses" in said line one (1); also by adding the following subsec-
6 tion:

7 "To hear appeals from any order denying an application for a
8 liquor control license."

1 SEC. 4. Section one hundred twenty-three point sixteen (123.16),
2 Code 1962, is further amended by striking all of subsection eight (8)
3 after the word "chapter" in line three (3) of subsection eight (8)
4 and inserting in lieu thereof a period (.); also by adding to subsection
5 nine (9) of such section the following:

6 "The commission shall create an enforcement division and shall
7 appoint a director, who shall be an attorney licensed to practice in
8 the state of Iowa, and five (5) assistant directors, at least two (2)
9 of whom shall be accountants. The director of the enforcement
10 division shall employ needed clerical help, and such other assistants
11 and agents as are necessary to carry out the enforcement of the
12 laws on liquor control. The enforcement division may enforce the
13 provisions of title six (VI) of the Code in the name of the state of
14 Iowa in proceedings before any court."

15 Section one hundred twenty-three point sixteen (123.16), Code
16 1962, is further amended by striking lines seven (7), eight (8) and
17 nine (9) of subsection eleven (11).

1 SEC. 5. Section one hundred twenty-three point seventeen
2 (123.17), Code 1962, is hereby amended by striking from paragraph

3 "f" of subsection two (2) of such section all after the word "chap-
4 ter" in line four (4) and inserting in lieu thereof the words "by the
5 commission. Each licensee holding a liquor control license and dis-
6 pensing liquors at retail shall establish prices based on serving one
7 (1) ounce of intoxicating liquor per sale. Such price lists shall be
8 filed with the commission and are subject to change by the licensee
9 upon filing a new price list with the commission."

1 SEC. 6. Section one hundred twenty-three point twenty-two
2 (123.22), Code 1962, is hereby amended by inserting after the words
3 "holder of a permit" in line four (4) of subsection one (1) the words
4 "or liquor control license"; also by striking the words "under such
5 permit" in lines five (5) and six (6) of subsection one (1); further
6 by striking the word "person" in line two (2) of subsection two (2)
7 and inserting in lieu thereof the words "permit holder"; also by add-
8 ing the following subsection:
9 "Every holder of a liquor control license shall keep a daily record
10 of the gross receipts of his business and shall include in such record
11 the number, brand and type of bottles emptied, during the course of
12 the day's business. Each bottle emptied, except beer bottles, shall
13 be broken immediately by the licensee or his agent into a container
14 provided for that purpose. The records herein required and the
15 premises of the licensee shall be open to the agents of the enforce-
16 ment division of the Iowa liquor control commission during normal
17 business hours of the licensee."

1 SEC. 7. Section one hundred twenty-three point twenty-four
2 (123.24), Code 1962, is hereby amended by inserting after the word
3 "sold" in line one (1) the words "by the commission".

1 SEC. 8. Section one hundred twenty-three point twenty-six
2 (123.26), Code 1962, is hereby amended by inserting after the word
3 "permit" in line twenty-five (25) the words "or liquor control
4 license".

1 SEC. 9. Section one hundred twenty-three point twenty-seven
2 (123.27), Code 1962, is hereby amended by adding at the end of sub-
3 section two (2), paragraph "a", the following:

4 "However, no individual permit shall be required for the purchase
5 of alcoholic liquor for consumption on premises covered by a liquor
6 control license."

1 SEC. 10. Section one hundred twenty-three point twenty-seven
2 (123.27), Code 1962, is further amended by adding the following:
3 "4. Upon posting bond in the penal sum of five thousand (5,000)
4 dollars with surety and conditions prescribed by the commission,
5 which bond shall be conditioned upon the payment of all taxes pay-
6 able to the state under the provisions of this chapter and compliance
7 with all provisions of this title, liquor control licenses may be issued
8 to any person who (or whose officers and stockholders, in the case of a
9 club or corporation, or whose partners, in the case of a partnership)
10 is of good moral character, is the holder of a retail beer permit as

11 defined in chapter one hundred twenty-four (124) of the Code, has
12 not been convicted of a felony, does not possess a federal gambling
13 stamp, is a citizen of the United States and a resident of the state
14 of Iowa for the past two (2) years or licensed to do business in the
15 case of a corporation in the state of Iowa for the last two (2) years,
16 is not chargeable directly or indirectly with the administration or
17 enforcement of the alcoholic beverages laws of the state of Iowa,
18 and is, in the judgment of the commission, of such financial stand-
19 ing and good reputation as will satisfy the commission that the
20 licensee will comply with the law and the regulations of the commis-
21 sion. As a further condition for issuance of a liquor control license,
22 the licensee must give consent for members of the fire, police and
23 health departments and the building inspector of cities and towns;
24 the county sheriff, deputy sheriff and state agents, and county health
25 officer to enter upon the premises without a warrant to inspect for
26 violations of the provisions of this chapter as amended, the provi-
27 sions of title six (VI) of the Code, or the provisions of ordinances
28 and regulations that cities and towns and boards of supervisors may
29 adopt.

30 "5. No liquor control license shall be issued for premises which
31 do not conform to all laws, ordinances and resolutions, health and
32 fire regulations applicable thereto, or, except in the case of a hotel
33 or motel, have any interior access to residential or sleeping quarters;
34 nor shall any class 'C' liquor control license be issued for premises
35 which are not wholly within the corporate limits of a city or town,
36 or in platted villages.*

37 "6. Liquor control licenses issued under this chapter shall be of
38 the following classes:

39 a. Class 'A'. A class 'A' liquor control license may be issued to a
40 club and shall authorize the holder thereof to purchase spirits and
41 wine from the commission only, and to sell alcoholic beverages so
42 purchased to bona fide members and their guests by the individual
43 drink for consumption on the premises only.

44 b. Class 'B'. A class 'B' liquor control license may be issued to a
45 hotel or motel as herein defined and shall authorize the holder
46 thereof to purchase spirits and wine from the commission only, and
47 to sell alcoholic beverages so purchased to patrons by the individual
48 drink for consumption on the premises only. Each such license shall
49 be effective throughout the premises described in the application
50 therefor, but a duplicate of such license shall be posted in each room
51 wherein such beverages are dispensed.

52 c. Class 'C'. A class 'C' liquor control license may be issued to a
53 commercial establishment but must be issued in the name of the
54 individual or individuals who actually own the entire business and
55 shall authorize the holder or holders thereof to purchase spirits and
56 wine from the commission only, and to sell alcoholic beverages so
57 purchased to patrons by the individual drink for consumption on the
58 premises only.

59 d. Class 'D'. A class 'D' liquor control license may be issued to a
60 railway corporation, to an air common carrier, and to passenger-
61 carrying boats or ships for hire with a capacity of twenty-five (25)

*Amended by ch. 115, sec. 2.

62 persons or more operating in inland or boundary waters, and shall
63 authorize the holder thereof to sell or furnish alcoholic beverages
64 to passengers for consumption only on trains, watercraft as described
65 herein, or aircraft, respectively. Each such license shall be good
66 throughout the state as a state license. Only one (1) such license
67 shall be required for all trains or aircraft operated in the state by
68 the licensee, but a duplicate of such license issued shall be posted in
69 each railroad car or aircraft in which such beverages are sold. Such
70 licensee shall keep a record of all alcoholic beverages sold or fur-
71 nished in the state of Iowa, and on or before the last day of each
72 month shall render a report to the commission showing the quan-
73 tities of the various kinds of alcoholic beverages so sold or furnished
74 during the preceding month, which report shall be accompanied by
75 payment of appropriate taxes owing.

76 "7. An application for a class 'A', class 'B', or class 'C' liquor
77 control license, accompanied by the required fee and bond, shall be
78 filed with the appropriate city or town council if the premises pro-
79 posed to be licensed are located within the corporate limits of a city
80 or town, or with the board of supervisors if the premises proposed
81 to be licensed are located outside the corporate limits of a city or
82 town. Application for a class 'D' liquor control license, accompanied
83 by the required fee and bond, shall be filed with the commission,
84 which shall proceed in the same manner as in the case of an appli-
85 cation approved by local authorities.

86 *a. Action by local authorities.* If the city or town council, or
87 county board of supervisors, as the case may be, approves the issu-
88 ance of a license, it shall endorse its approval on the application and
89 forward same along with the fee and bond to the commission; or
90 if it disapproves issuance of a license, it shall endorse its disapproval
91 on the application and forward same along with the fee and bond
92 to the commission. Upon the initial issuance of or denial of liquor
93 control licenses, the fact that local authorities determine that no
94 liquor control licenses shall be issued under this chapter as amended
95 shall not be held to be arbitrary, capricious or without reasonable
96 cause.

97 Before the issuance, renewal, or denial of liquor control licenses
98 by local authorities, the board or council may conduct a referendum
99 on the question of whether liquor control licenses shall be approved
100 for the city, town, or county in question. Said referendum shall be
101 conducted in the same manner that special elections are conducted.
102 The purpose of such referendum shall be solely to assist the board
103 or council members in determining public sentiment toward liquor
104 by the drink sales, and shall not be binding on the council or board
105 members in determining whether or not to approve the issuance or
106 renewal of liquor control licenses.

107 *b. Action by the commission.* Upon receipt of an application hav-
108 ing been disapproved, the commission shall disapprove the applica-
109 tion and so notify the applicant by registered mail. Upon receipt of
110 an application having been approved, the commission shall make
111 such investigation as it deems necessary and it may require the
112 applicant to appear before it and be examined under oath regarding
113 any matters pertinent to the application, in which case a record shall
114 be made of all testimony or evidence and the same shall become a

115 part of the application. If the application is approved, an appropri-
116 ate liquor control license shall be issued. If the application is dis-
117 approved, the applicant and the appropriate city or town council, or
118 county board of supervisors, shall be so notified in writing, and the
119 fee and bond shall be returned to the applicant.

120 **c. Appeal to commission.** Any applicant for a liquor control license
121 may appeal to the commission from its disapproval of an applica-
122 tion for a license; or, in lieu of such appeal, the commission may
123 afford the applicant a hearing through issuance of a notice to the
124 applicant of contemplated disapproval of a license. If, upon such
125 appeal or hearing, the commission shall determine that the city or
126 town council, or county board of supervisors, acted arbitrarily,
127 capriciously, or without reasonable cause in disapproving the appli-
128 cation, or that (where the city or town council, or county board of
129 supervisors approved the application) the commission's own dis-
130 approval or contemplated disapproval should be reversed, it may
131 issue a license.

132 **d. Appeal to courts.** Any applicant who feels aggrieved by a deci-
133 sion of the commission or issuing authority disapproving, suspend-
134 ing, or revoking issuance of a license may, provided he has exercised
135 his rights of appeal to the commission as hereinabove provided,
136 appeal from said decision within ten (10) days to the district court
137 of the county wherein the premises covered by the applications are
138 situated.

139 Where the commission on an appeal by an applicant finds that a
140 city or town council or county board of supervisors acted arbitrar-
141 ily, capriciously, or without reasonable cause in disapproving an appli-
142 cation and the commission issues a license, the council or board may
143 appeal from such decision of the commission within ten (10) days
144 to the district court of the county wherein the premises covered by
145 the application are situated.

146 **e.** If a petition shall be signed by the electors of any county in
147 such number as shall equal twenty-five percent of the votes cast in
148 such county for governor at the last general election, which shall
149 request that the question of licensing the sale of alcoholic beverages
150 (exceeding four percent by weight) by the drink be submitted to
151 the electors thereof at a special election to be called for that pur-
152 pose, as hereinafter provided, and shall be filed with the board of
153 supervisors, the board shall cause such election to be held and shall
154 cause to be published once each week for four (4) weeks in succes-
155 sion in a newspaper* of general circulation in such county a notice of
156 such special election to be held not less than fifteen (15) nor more
157 than thirty (30) days from the date of the last publication. The
158 notice shall state the proposition to be submitted to the electors at
159 such special election. Each sheet of the petition shall contain not
160 more than thirty (30) names of electors with their personal signa-
161 tures, addresses, and the date of signing. If residing within a city
162 or town where the electors are required to be registered, the signa-
163 ture shall be the same as it appears upon the registration records.
164 At the top of each sheet shall be stated the proposition to be sub-
165 mitted. No signature on such petition shall be valid unless appended

*Amended by ch. 115, sec. 10.

166 to the petition within the last ninety (90) days prior to the date of
 167 filing the petition. At the bottom of each sheet of such petition shall
 168 be the affidavit of the person who circulated same, stating that the
 169 signatures on the petition were made in his presence, that he has
 170 reasonable cause to believe that they are qualified electors of the
 171 particular county, and that they are the persons they represent
 172 themselves to be. Whoever signs any such petition, knowing that
 173 he is not a qualified elector in the county where such petition is
 174 made, or who aids or abets any other person in doing any of the acts
 175 mentioned, or whoever bribes, gives or pays any money or thing of
 176 value to any person directly or indirectly, to induce him to sign such
 177 petition, shall upon conviction thereof be punished by a fine of not
 178 exceeding three hundred dollars (\$300.00) or by imprisonment in
 179 the county jail not exceeding ninety (90) days or by both such fine
 180 and imprisonment, in the discretion of the court.

181 Upon the ballot the proposition shall be stated as follows:

182 "Shall the retail sale of alcoholic beverages (exceeding four per-
 183 cent by weight) by the drink be prohibited in (here insert the name
 184 of the county)?"

185 YES
 186 NO

187 The provisions of the statutes of this state relating to election of
 188 officers, voting places, election apparatus and blanks, preparation and
 189 form of ballots, information to voters, delivery of ballots, calling of
 190 elections, conduct of elections, manner of voting, counting of votes,
 191 records and certificates of election, and recount of votes, so far as
 192 applicable, shall apply to voting on the proposition under the pro-
 193 visions of this Act. If a majority of the ballots cast are "YES", the
 194 board shall not issue any new licenses. However, if at the time of
 195 such election there are liquor control licenses in effect in the county,
 196 they shall not be revoked except for cause for a period of three (3)
 197 years. No new election shall be held for a period of four (4) years.
 198 This election shall not be held within thirty (30) days of any gen-
 199 eral election.*

200 "8. Verified applications for the original issuance or the renewal
 201 of liquor control licenses shall be filed at such time and in such num-
 202 ber of copies as the commission shall by regulations prescribe, on
 203 forms prescribed by the commission, and shall set forth under oath
 204 the following information:

205 a. The name and address of the applicant.

206 b. The precise location of the premises for which a license is
 207 sought.

208 c. The names and addresses of all persons (in the case of a cor-
 209 poration, the officers, directors, and persons owning or controlling
 210 ten (10) percent or more of the capital stock thereof) having a
 211 financial interest, by way of loan, ownership, or otherwise, in the
 212 business or the profits thereof.

213 d. When required by the commission, a sketch or drawing of the
 214 premises proposed to be licensed and in such form and containing
 215 such information as the commission may require.

216 e. A statement whether any person specified in (c) above has ever

*Amended by ch. 115, sec. 3.

217 been convicted of any offense against the laws of the United States,
 218 or any state or territory thereof, or any political subdivision of any
 219 such state or territory.

220 A statement whether the applicant or any person specified in para-
 221 graph (c) of subsection eight (8) possesses a federal gambling stamp.
 222 f. Such other information as the commission shall require.

223 "9. There shall be no limit upon the number of liquor control
 224 licenses which may be issued by a city or town council or board of
 225 supervisors, except that not more than one* license may be issued to
 226 each qualified applicant.

227 "10. All liquor control licenses issued as provided for herein, un-
 228 less sooner revoked, shall expire on the anniversary date of each
 229 year.

230 "11. Every permit holder licensed under this chapter shall fill out
 231 in duplicate, on forms furnished by the commission, the amount and
 232 kinds of liquors purchased, and shall retain one (1) copy in his
 233 establishment for a period of two (2) years, and the manager of the
 234 state liquor store at which the purchase was made shall monthly
 235 forward the other copy to the commission.

236 "12. It shall be unlawful for any law-enforcement officer or other
 237 official to accept or solicit donations, gratuities, advertising, gifts or
 238 other favors, directly or indirectly, from any licensee hereunder.
 239 Anyone violating this section shall be guilty of a misdemeanor and
 240 shall be subject to a fine of not less than one hundred (100) dollars
 241 nor more than one thousand (1,000) dollars, or shall be subject to a
 242 jail term of not less than thirty (30) days, nor more than six (6)
 243 months, or to both such fine and imprisonment."

1 SEC. 11. Section one hundred twenty-three point twenty-eight
 2 (123.28), Code 1962, is hereby amended by adding the following
 3 paragraphs:

4 "There shall be paid annually to the commission for a liquor con-
 5 trol license the following fees:

6 1. Class 'A' liquor control licenses, the sum of five hundred (500)
 7 dollars), except that for class 'A' permits* in towns of less than two
 8 thousand (2,000) population, and for clubs of less than two hundred
 9 fifty (250) members, the license fee shall be three hundred (300) dol-
 10 lars; provided, however, that the fee shall be one hundred (100) dol-
 11 lars for any club which is a post, branch, or chapter of a veterans'
 12 organization chartered by the Congress of the United States, if such
 13 club does not sell or permit the consumption of alcoholic beverages
 14 on the premises more than one day in any week, and if the applica-
 15 tion for a license states that such club does not and will not sell or
 16 permit the consumption of alcoholic beverages on the premises more
 17 than one day in any week;

18 2. Class 'B' liquor control licenses, the sum as follows:

19 a. Hotels or motels located within the corporate limits of cities of
 20 ten thousand (10,000) population and over, one thousand (1,000)
 21 dollars;

22 b. Hotels and motels located within the corporate limits of cities

*Amended by ch. 115, sec. 3.

*Amended by ch. 115, sec. 4.

23 of over three thousand (3,000) and less than ten thousand (10,000)
 24 population, seven hundred and fifty (750) dollars;
 25 c. Hotels and motels located within the corporate limits of towns*
 26 of three thousand (3,000) population and less, five hundred (500)
 27 dollars;
 28 d. Hotels and motels located outside the corporate limits of any
 29 city or town, one thousand (1,000) dollars.
 30 3. Class 'C' liquor control licenses, the sum of one thousand
 31 (1,000) dollars.*
 32 4. Class 'D' liquor control licenses, the sum of two hundred fifty
 33 (250) dollars.
 34 "The commission shall credit all fees to the liquor control act fund
 35 and shall remit to the respective city or town council, or county
 36 board of supervisors, as the case may be, a sum equal to fifty (50)
 37 percent of the fees collected for each class 'A', class 'B', or class 'C'
 38 license covering premises located within their respective jurisdic-
 39 tion."

1 SEC. 12. Section one hundred twenty-three point twenty-nine
 2 (123.29), Code 1962, is hereby amended by inserting after the word
 3 "permit" in line one (1) the words "or liquor control license"; also
 4 by striking the period (.) in line eight (8) and inserting in lieu
 5 thereof the words "or licensee.";* also by adding the following para-
 6 graph:
 7 "Any liquor control licensee or his executor, administrator or any
 8 person duly appointed by the court to take charge of and administer
 9 the property or assets of such permittee for the benefit of his
 10 creditors, may voluntarily surrender any permit, issued under this
 11 chapter, to the issuing authority and when so surrendered the issu-
 12 ing authority shall refund to the person so surrendering the permit
 13 a proportionate amount of the permit fee paid for such permit as
 14 follows: if surrendered during the first three (3) months of the
 15 period for which said permit was issued the refund shall be three-
 16 fourths ($\frac{3}{4}$) of the amount of the permit fee; if surrendered more
 17 than three (3) months but not more than six (6) months after
 18 issuance the refund shall be one-half ($\frac{1}{2}$) of the amount of the
 19 permit fee; if surrendered more than six (6) months but not more
 20 than nine (9) months after issuance the refund shall be one-fourth
 21 ($\frac{1}{4}$) of the amount of the permit fee. No refund shall be made,
 22 however, for any permit surrendered more than nine (9) months
 23 after issuance. No refund shall be made to any permit holder, upon
 24 the surrender of his permit, if there is at the time of said surrender
 25 a complaint filed with the board or council charging him with a vio-
 26 lation of the provisions of this chapter. If upon hearing on any such
 27 complaint, so filed, his permit be not revoked, then said permit
 28 holder shall be eligible, upon surrender of his license, to receive a
 29 refund as herein provided. But in event his license is revoked upon
 30 such hearing then he shall not be eligible for the refund of any por-
 31 tion of his permit fee.

*Amended by ch. 115, sec. 4.

*Amended by ch. 115, sec. 5.

*Amended by ch. 115, sec. 6.

32 The issuing authority may in its discretion authorize a licensee to
 33 remove the license from one location to another within the same in-
 34 corporated city or town, or within a county outside the corporate
 35 limits of a city or town, provided that the premises to which the
 36 transfer is to be made would have been eligible for a license in the
 37 first instance and such transfer will not result in any violation of
 38 any provision of law.

1 SEC. 13. Section one hundred twenty-three point thirty-two
 2 (123.32), Code 1962, is hereby amended by adding the following
 3 paragraph:

4 "Any liquor control license issued under this chapter may, after
 5 notice in writing to the license holder and reasonable opportunity
 6 for hearing, be suspended or canceled by the issuing authority or the
 7 commission for any of the following causes:

- 8 a. Misrepresentation of any material fact in the application for
 9 such license, or
- 10 b. Violation of any of the provisions of this chapter as amended
 11 or regulations of the commission, or
- 12 c. Any change in the ownership or interest in the business oper-
 13 ated under a class 'A', class 'B', or class 'C' license, which change
 14 was not previously reported to the commission and approved by it, or
- 15 d. An event which would have resulted in disqualification from
 16 receiving such license when originally issued, or
- 17 e. Any sale, hypothecation, or transfer of such license.
- 18 f. Any liquor control licensee whose license is revoked or canceled
 19 for cause shall not thereafter be permitted to hold a liquor control
 20 license in the state of Iowa. The spouse and business associates of
 21 a person whose license has been canceled or revoked for cause shall
 22 not be issued a liquor control license, and no liquor control license
 23 shall be issued which covers any business in which such person has
 24 a financial interest. In the event a license is revoked for cause the
 25 premises covered by a revoked license shall not be relicensed for one
 26 (1) year."

1 SEC. 14. Section one hundred twenty-three point forty (123.40),
 2 Code 1962, is hereby amended by adding at the end thereof the fol-
 3 lowing:

4 "No person engaged in the business of manufacturing, bottling, or
 5 wholesaling any alcoholic beverages nor any jobber nor any agent of
 6 such person shall directly or indirectly supply, furnish, give or pay
 7 for any furnishings, fixtures or equipment used in the storage, han-
 8 dling, serving, or dispensing of any alcoholic beverages or food
 9 within the place of business of another permittee* authorized under
 10 the provisions of this chapter to sell at retail; nor shall he directly
 11 or indirectly extend any credit for any alcoholic beverages or pay
 12 for any such permit,* nor directly or indirectly be interested in the
 13 ownership, conduct or operation of the business of another permittee*
 14 authorized under the provisions of this chapter to sell at retail.
 15 Any permittee* who shall permit or assent or be a party in any way
 16 to any such violation or infringement of the provisions of this chap-

*Amended by ch. 115, sec. 7.

17 ter shall be deemed guilty of a violation of the provisions of this
18 chapter.”

1 SEC. 15. Section one hundred twenty-three point forty-two
2 (123.42), Code 1962, is hereby amended by inserting after the comma
3 (,) in line four (4) thereof the following: “except premises covered
4 by a liquor control license.”

1 SEC. 16. Section one hundred twenty-three point forty-six
2 (123.46), Code 1962, is hereby amended by adding at the end thereof
3 the following:

4 “4. No person or club holding a liquor control license under this
5 chapter, his agents or employees, shall:

6 a. Knowingly permit any gaming, gambling, solicitation for im-
7 moral purposes, immoral or disorderly conduct on the licensed prem-
8 ises, or

9 b. Sell or dispense any alcoholic beverage on the licensed premises
10 or permit the consumption thereon between the hours of one (1)
11 a.m. and seven (7) a.m. on any week day, and between the hours of
12 twelve (12) o'clock midnight on Saturday and seven (7) a.m. on the
13 following Monday, or on any general, special or primary election day
14 during the hours that polls are open, or during such other periods
15 or days as may be designated by the commission, or

16 c. Sell alcoholic beverages to any person on credit, except that this
17 provision shall not apply to sales by a club to its members nor to
18 sales by a hotel or motel to bona fide registered guests, or with a
19 bona fide credit card, or

20 d. Keep on the licensed premises any spirits or wine in any con-
21 tainer except the original package purchased from the commission,
22 except mixed drinks or cocktails mixed on the premises for immedi-
23 ate consumption, provided that this shall not apply to common car-
24 riers holding a class ‘D’ liquor control license, or

25 e. Reuse for the packaging of any spirits or wine any bottle or
26 other container which has been used for the packaging of alcoholic
27 beverages or possess any such bottle or container, or in any manner
28 alter or increase, by the addition thereto of any substance, any por-
29 tion of the original contents remaining in such bottle or container
30 in which any portion of the original contents has been so altered or
31 increased, or

32 f. Employ any person under the age of twenty-one (21) years in
33 the handling of liquor on the premises where such liquor is sold, or

34 g. Allow any person other than the license holder or his employ-
35 ees to use or keep on the licensed premises any spirits or wine in any
36 bottle or other container which is designed for the transporting of
37 alcoholic beverages, provided that this shall not apply to the lodg-
38 ing quarters of a class ‘B’ liquor control licensee, or to common car-
39 riers holding a class ‘D’ liquor control license.

40 h. Knowingly sell, give, or otherwise supply any alcoholic bever-
41 age or beer to any person under the age of twenty-one (21) years,
42 or knowingly permit any person under the age of twenty-one (21)
43 years to consume any alcoholic beverage or beer.

44 “5. No person under the age of twenty-one (21) years shall mis-
45 represent his or her age for the purpose of purchasing or attempting

46 to purchase any alcoholic beverage from any licensee. If any person
 47 under the age of twenty-one (21) years shall misrepresent his or her
 48 age, and the licensee having established that he made reasonable
 49 inquiry to determine whether such prospective purchaser is over the
 50 age of twenty-one (21) years, such licensee shall not be guilty of
 51 selling liquor to minors.

52 "Whoever violates any of the provisions of this section shall be
 53 subject to a fine of not to exceed one hundred (100) dollars or to
 54 imprisonment for not more than thirty (30) days in the county jail
 55 or to both such fine and imprisonment.

56 "The conviction of any liquor control license holder for the viola-
 57 tion of any of the provisions of this section shall be grounds for the
 58 suspension or revocation of the license by the commission or the
 59 issuing authority.

60 "However, if any liquor control license holder shall be convicted
 61 of any violation of paragraphs (a), (d), (e), or (h) of subsection four
 62 (4) of this section, the liquor control license shall automatically be re-
 63 voked and shall immediately be surrendered by the holder, and the
 64 bond of the license holder shall be forfeited to the commission."

1 SEC. 17. Notwithstanding the provisions of section one hundred
 2 twenty-four point thirty-one (124.31) of the Code, a person who is
 3 the holder of a liquor control license may keep, sell, and allow alco-
 4 holic liquor to be consumed on the premises covered by the liquor
 5 control license.

1 SEC. 18. Section one hundred twenty-three point fifty-three
 2 (123.53), Code 1962, is hereby amended by inserting after subsec-
 3 tion nine (9) the following:

4 "10. The number of liquor control licenses issued, by class, and the
 5 number in effect on the last day included in the report.

6 "11. Amount of fees paid to the commission from said liquor con-
 7 trol licenses, in gross, and the amount returned to local subdivisions
 8 of government as provided under this chapter."

1 SEC. 19. Section one hundred twenty-three point fifty-seven
 2 (123.57), Code 1962, is hereby amended by striking from lines one
 3 (1) and two (2) the words "auditor of state" and inserting in lieu
 4 thereof the words "enforcement division of the Iowa liquor control
 5 commission".

1 SEC. 20. Section one hundred twenty-three point fifty-nine
 2 (123.59), Code 1962, is hereby amended by inserting after the words
 3 "by gift or otherwise" in line eight (8) the words "in violation of
 4 law" and by striking the words "this chapter" in lines twelve (12)
 5 and thirteen (13), and substituting therefor the word "law".

1 SEC. 21. Section one hundred twenty-three point sixty (123.60),
 2 Code 1962, is hereby amended by striking the words "this chapter"
 3 in line eight (8), and inserting in lieu thereof the word "law".

1 **SEC. 22.** Section one hundred twenty-three point ninety-three
2 (123.93), Code 1962, is hereby amended as follows:
3 1. By striking from line one (1) the words "county attorney" and
4 inserting in lieu thereof the words "enforcement division".
5 2. By inserting in line four (4) after the word "safety" the words
6 ", county attorney".
7 3. By striking from line nine (9) the words "county attorney" and
8 inserting in lieu thereof the words "enforcement division".
9 4. By adding at the end of said section the following:
10 "Nothing in this section shall be construed to remove or lessen the
11 duties or responsibilities of any county attorney or peace officer with
12 respect to law enforcement."

1 **SEC. 23.** Section one hundred twenty-four point five (124.5),
2 Code 1962, is amended by striking from lines fourteen (14) and fif-
3 teen (15) the words and figures "in villages platted prior to January
4 1, 1934,".

1 **SEC. 24.** Section one hundred twenty-four point sixteen (124.16),
2 Code 1962, is hereby amended by striking all of subsection six (6).

1 **SEC. 25.** Section one hundred twenty-four point thirty-one
2 (124.31), Code 1962, is hereby amended by striking from lines eigh-
3 teen (18) through twenty-four (24) the following:
4 "to the private premises of any bona fide private club or association
5 for which a class 'B' permit has been issued, having a select and dis-
6 criminate membership and owned and operated by and for the bene-
7 fit of the members which is under the exclusive control of the
8 membership or,".

1 **SEC. 26.** Section one hundred twenty-five point seven (125.7),
2 Code 1962, is hereby amended by inserting after the words "by gift
3 or otherwise" in line eight (8), the words "in violation of law".

1 **SEC. 27.** Section one hundred twenty-five point thirteen (125.13),
2 Code 1962, is hereby amended by adding thereto the following:
3 "Provided, however, that this section shall not apply to the holder
4 of a liquor control license authorizing the sale of alcoholic liquors
5 for consumption on the premises where sold, his agents, servants or
6 employees for the performance on the licensed premises of the acts
7 herein prohibited."

1 **SEC. 28.** Section one hundred twenty-five point seventeen
2 (125.17), Code 1962, is hereby amended by inserting after the word
3 "car" in line eight (8), the words "in violation of law".

1 **SEC. 29.** Chapter one hundred twenty-three (123), Code 1962, is
2 amended by adding thereto the following:
3 Every husband, wife, child, parent, guardian, employer or other
4 person who shall be injured in person or property or means of sup-
5 port by any intoxicated person or resulting from the intoxication of

6 any such person, shall have a right of action, severally or jointly
 7 against any* person, firm, or corporation who shall, by selling or
 8 giving beer or intoxicating liquor to such person, have caused the
 9 intoxication, in whole or in part of such person for all damages
 10 actually sustained, as well as exemplary damages. Every liquor con-
 11 trol licensee shall furnish proof of financial responsibility either by
 12 the existence of a liability insurance policy or by posting bond in
 13 such amount as determined by the commission.

1 SEC. 30. Chapter one hundred twenty-three (123), Code 1962, is
 2 amended by adding thereto the following:

3 It is unlawful for any person, firm, corporation, partnership, or
 4 association to allow the dispensing or consumption of intoxicating
 5 liquor or intoxicating beverages except sacramental wines and beer,
 6 in any establishment unless such establishments are licensed under
 7 this title.

8 Provided, however, the provisions of this section shall not apply
 9 to bona fide conventions or meetings where mixed drinks are served
 10 to delegates or guests without cost. All other provisions of this
 11 chapter shall be applicable to such rooms. The provisions of this
 12 section shall have no application to occasional private social gather-
 13 ings of friends or relatives in a private home or place.

1 SEC. 31. Chapter one hundred twenty-three (123), Code 1962, is
 2 amended by adding thereto the following:

3 There is hereby imposed on every individual, partnership, corpo-
 4 ration, association or club licensed to sell alcoholic beverages for
 5 consumption on the premises where sold, an occupational tax to be
 6 computed on all alcoholic beverages sold, as follows:

7 An amount equivalent to ten (10) percent upon the gross receipts
 8 of any licensee from all sales of alcoholic beverages in the state of
 9 Iowa. This occupational tax on gross receipts shall be in lieu of
 10 sales tax thereon.

1 SEC. 32. Chapter one hundred twenty-three (123), Code 1962, is
 2 amended by adding thereto the following:

3 On or before the fifteenth day of each month every such licensee
 4 shall render to the commission a report sworn to by an officer or
 5 agent in the case of corporations, and by the owner or agent in the
 6 case of an individual licensee, showing the amount of receipts from
 7 sales of such alcoholic beverages in the state of Iowa during the
 8 preceding calendar month and such other information as the com-
 9 mission may require, such reports to be on forms to be provided by
 10 the commission. Such reports shall be accompanied by payment of
 11 ten (10) percent of the gross receipts received during the calendar
 12 month covered by such report.

1 SEC. 33. Chapter one hundred twenty-three (123), Code 1962, is
 2 amended by adding thereto the following:

3 A penalty of five (5) percent per month of the amount of the tax

*Amended by ch. 115, sec. 8.

4 shall be added thereto if the report is not filed and the tax paid to
5 the commission by said fifteenth day of the calendar month.

1 SEC. 34. Chapter one hundred twenty-three (123), Code 1962, is
2 amended by adding thereto the following:

3 "Gross receipts" as used in this chapter as amended, means the
4 amount received in money, credits, property or other moneys worth
5 in consideration of sales of such alcoholic beverages within this
6 state, without any deduction on account of the cost of the property
7 sold, the costs of the materials used, the cost of labor or services,
8 purchases, amounts paid for interest or discount, or any other ex-
9 penses whatsoever. No deductions shall be allowed for losses of any
10 nature.

1 SEC. 35. Chapter one hundred twenty-three (123), Code 1962, is
2 amended by adding thereto the following:

3 All revenues, except the portion of license fees remitted to the
4 local authorities, arising under the operation of the provisions of this
5 chapter as amended shall become part of the state general fund.

1 SEC. 36. Chapter one hundred twenty-three (123), Code 1962, is
2 amended by adding thereto the following:

3 The failure or refusal on the part of any licensee to render any
4 report or remit any taxes to the commission under this chapter as
5 amended when due shall be grounds for suspension or revocation of
6 the liquor control license.

1 SEC. 37. The general assembly hereby determines and declares
2 that the provisions of sections thirty-seven (37) through fifty (50)
3 of this Act are necessary in order to control alcoholic beverages and
4 aid the enforcement of laws prohibiting operation of a motor vehicle
5 while in an intoxicated condition.

1 SEC. 38. As used in sections thirty-seven (37) through fifty (50)
2 of this Act the words "peace officer" mean:

- 3 1. Members of the highway patrol.
- 4 2. Police officers under civil service as provided in chapter three
5 hundred sixty-five (365) of the Code.
- 6 3. Sheriffs.
- 7 4. Regular deputy sheriffs who have had formal police training.

1 SEC. 39. Any person who operates a motor vehicle in this state
2 upon a public highway, under such circumstances as to give reason-
3 able grounds to believe the person to have been operating a motor
4 vehicle while in an intoxicated condition, shall be deemed to have
5 given consent to the withdrawal from his body of specimens of his
6 blood, breath, saliva, or urine, and to a chemical test or tests
7 thereof, for the purpose of determining the alcoholic content of his
8 blood, subject to the provisions hereinafter set out. The withdrawal
9 of such body substances, and the test or tests thereof, shall be ad-
10 ministered at the written request of a peace officer having reasonable
11 grounds to believe the person to have been operating a motor vehicle

12 upon a public highway of this state while in an intoxicated condi-
13 tion, and only after the peace officer has placed such person under
14 arrest for the offense of operating a motor vehicle while in an intox-
15 icated condition. If such person requests that a specimen of his
16 blood not be withdrawn, then a specimen of his breath, saliva, or
17 urine shall be withdrawn at the written request of such peace officer ;
18 provided, however, that if such person refuses to submit to any
19 chemical testing, no test shall be given, and the provisions of section
20 forty-three (43) of this Act shall apply. However, if such peace
21 officer fails to provide such test within two (2) hours after such
22 arrest, no test shall be required, and there shall be no revocation
23 under the provisions of section forty-three (43) of this Act.

1 SEC. 40. Only a licensed physician, or a medical technologist or
2 registered nurse designated by a licensed physician as his represent-
3 ative, acting at the written request of a peace officer may withdraw
4 such body substances for the purpose of determining the alcoholic
5 content of the person's blood. Only new, -originally factory wrapped,
6 disposable syringes and needles, kept under strictly sanitary and
7 sterile conditions shall be used for drawing blood. Such person may
8 have an independent chemical test or tests administered in addition
9 to any administered at the direction of a peace officer. The failure
10 or inability of the person to obtain an independent chemical test or
11 tests shall not preclude the admission in evidence of the results of
12 the test or tests taken at the direction of the peace officer. Upon the
13 request of the person who is tested, the results of the test or tests
14 taken at the direction of the peace officer shall be made available to
15 him.

1 SEC. 41. Any person who is dead, unconscious or who is other-
2 wise in a condition rendering him incapable of consent or refusal
3 shall be deemed not to have withdrawn the consent provided by sec-
4 tion thirty-nine (39) of this Act, and the tests may be given ; provided
5 that a licensed physician shall certify in advance of such test that
6 such person is dead, unconscious or otherwise in a condition render-
7 ing him incapable of consent or refusal. In such case such condition
8 shall obviate the requirements of arrest and advice pursuant to sec-
9 tion forty-two (42) of this Act.

1 SEC. 42. A peace officer shall advise any person who is requested
2 to take any chemical test that a refusal to submit to such test will
3 result in revocation of the person's license or privilege to operate a
4 motor vehicle; provided, however, that this requirement shall not
5 apply in the case of any person referred to in section forty-one (41).

1 SEC. 43. If a person under arrest refuses to submit to the chem-
2 ical testing, no test shall be given, but the commissioner*, upon the
3 receipt of a sworn report of the peace officer that he had reasonable
4 grounds to believe the arrested person to have been operating a
5 motor vehicle upon a public highway of this state while in an intoxi-
6 cated condition, that he had placed such person under arrest for the

*Amended by ch. 115, sec. 9.

7 offense of operating a motor vehicle while in an intoxicated condition
8 and that the person had refused to submit to the chemical testing,
9 shall revoke his license or permit to drive and any nonresident oper-
10 ating privilege for a period of not less than one hundred twenty
11 (120) days nor more than one (1) year; or if the person is a resident
12 without a license or permit to operate a motor vehicle in this state,
13 the commissioner shall deny to the person the issuance of a license or
14 permit within one year from the date of the alleged violation, sub-
15 ject to review as hereinafter provided. The effective date of any
16 such revocation shall be twenty (20) days after the commissioner
17 has mailed notice of such revocation to such person by registered or
18 certified mail.

1 SEC. 44. Upon the written request of a person whose privilege
2 to drive has been revoked or denied, the commissioner* shall grant the
3 person an opportunity to be heard within ten days after the receipt
4 of the request, but the request must be made within thirty days
5 after the effective date of revocation or denial. The hearing shall
6 be before the commissioner or his authorized agent, in the county
7 wherein the alleged events occurred for which the person was ar-
8 rested, unless the commissioner or his authorized agent and the
9 person agree that the hearing may be held in some other county.
10 The hearing shall be recorded and its scope shall cover the issues of
11 whether a peace officer had reasonable grounds to believe the person
12 to have been operating a motor vehicle upon a public highway of this
13 state while in an intoxicated condition, whether the person was
14 placed under arrest and whether he refused to submit to the test or
15 tests. The commissioner or his authorized agent shall order that the
16 revocation or denial be either rescinded or sustained.

1 SEC. 45. If the revocation or denial is sustained the person whose
2 license, permit to drive, or nonresident operating privilege has been
3 revoked or denied, may file a petition within thirty days after the
4 determination by the commissioner* or his authorized agent for a
5 hearing of the matter in the district court in the county wherein the
6 alleged events occurred for which he was arrested or in the county
7 in which the administrative hearing was held. It shall be the duty
8 of the court to set the matter for hearing, and the petitioner shall
9 give twenty days notice thereof to the commissioner. Within fifteen
10 days after receipt of the notice, the commissioner shall file in the
11 office of the clerk of the district court to which the appeal is taken
12 a certified transcript of the testimony and all other proceedings. It
13 shall constitute the record on which the commissioner made his
14 determination. The court thereafter shall hear the matter de novo
15 and shall affirm or vacate the decision of the commissioner or his
16 authorized agent. The person or the commissioner may appeal to
17 the supreme court in accordance with the Iowa Rules of Civil Pro-
18 cedure.

*Amended by ch. 115, sec. 9.

1 SEC. 46. Upon the trial of any civil or criminal action or proceed-
 2 ing arising out of acts alleged to have been committed by any person
 3 while operating a motor vehicle upon a public highway of this state
 4 while in an intoxicated condition, evidence of the amount of alcohol
 5 in the person's blood at the time of the act alleged as shown by a
 6 chemical analysis of his blood, breath, saliva or urine is admissible.

1 SEC. 47. If the person under arrest refuses to submit to the test
 2 or tests, proof of refusal shall be admissible in any civil or criminal
 3 action or proceeding arising out of acts alleged to have been com-
 4 mitted while the person was operating a motor vehicle upon a public
 5 highway of this state while in an intoxicated condition.

1 SEC. 48. The provisions of this Act shall not be construed as
 2 limiting the introduction of any other competent evidence bearing on
 3 the question of whether the person was in an intoxicated condition.

1 SEC. 49. When it has been finally determined under the proce-
 2 dures of this Act that a nonresident's privilege to operate a motor
 3 vehicle in this state has been revoked or denied, the department of
 4 public safety shall give information in writing of the action taken
 5 to the official in charge of traffic control or public safety of the state
 6 of the person's residence and of any state in which he has a license.

1 SEC. 50. Sections thirty-seven (37) through fifty (50) of this
 2 Act may be cited as the "Uniform Chemical Test for Intoxication
 3 Act".

1 SEC. 51. It is hereby declared to be the legislative intent that if
 2 this Act cannot take effect in its entirety because of the decision of
 3 any court holding unconstitutional any part, sentence or clause
 4 thereof, the remaining provisions of the Act shall be given full force
 5 and effect as completely as if the part held unconstitutional had not
 6 been included herein.

Approved May 14, 1963.

CHAPTER 115

LIQUOR CONTROL ACT AMENDMENTS

S. F. 485

AN ACT to amend the liquor control Act, Senate File four hundred thirty-seven (437)* of the Sixtieth General Assembly, relating to the control, sale and use of alcoholic beverages.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section two (2), of senate file four hundred thirty-
 2 seven (437), Acts of the Sixtieth General Assembly, is amended by

*Chapter 114.