

CHAPTER 1040
SALE OF NATIVE WINES

H.F. 2529

AN ACT relating to the sale of native wines to class "A", class "B", and class "C" liquor control licensees for consumption on the licensed premises.

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

Section 1. Section one hundred twenty-three point twenty-six (123.26), Code 1979, is amended to read as follows:

123.26 RESTRICTIONS ON SALES--SEALS--LABELING. ~~No alcoholic~~ Alcoholic liquor shall not be sold by the department to any a purchaser except in a sealed container with ~~such~~ identifying markers as ~~shall be~~ prescribed by the director and affixed on the premises of a state warehouse or store and no such container shall be opened upon the premises of any a state warehouse or store. Possession of alcoholic liquors which do not carry the prescribed identifying markers ~~shall be~~ is a violation of this chapter except as provided in section 123.22, and except as authorized by the council pursuant to section one hundred twenty-three point fifty-six (123.56), subsection four (4)* of the Code.

Sec. 2. Section one hundred twenty-three point twenty-seven (123.27), Code 1979, is amended to read as follows:

123.27 SALES PROHIBITED.

1. It ~~shall be~~ is unlawful to transact the sale or delivery of any alcoholic liquor in, on, or from the premises of any a state liquor store or warehouse:

1 a. After the closing hour as established by the director.

2 b. On any legal holiday.

3 c. On any Sunday.

4 d. During ~~such~~ other periods or days as ~~may be~~ designated by the director.

2. The director shall promulgate rules, subject to the approval of the council, concerning the days and hours that manufacturers of native wines may sell native wines to class "A", class "B", and class "C" liquor control licensees pursuant to section one hundred twenty-three point fifty-six (123.56) of the Code.

Sec. 3. Section one hundred twenty-three point thirty (123.30), subsection three (3), paragraphs a, b, and c, are amended to read as follows:

a. Class "A". A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from only the department ~~only~~, and native wines from native wine manufacturers, and to sell such liquors, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.

*Section 6, subsection 4, of this Act

b. Class "B". A class "B" liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from only the department ~~only~~, and native wines from native wine manufacturers, and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises. Each ~~such~~ license shall be effective throughout the premises described in the application.

c. Class "C". A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the ~~individual or~~ individuals who actually own the entire business and shall authorize the holder ~~or holders~~ to purchase alcoholic liquors from only the department ~~only~~, and native wines from native wine manufacturers, and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises.

Sec. 4. Section one hundred twenty-three point forty-nine (123.49), subsection two (2), paragraph d, Code 1979, is amended to read as follows:

d. Keep on ~~any~~ premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the department or from a native wine manufacturer, except still wines placed in dispensing or serving containers for temporary storage, and except mixed drinks or cocktails mixed on the premises for immediate consumption. This prohibition ~~shall~~ does not apply to common carriers holding a class "D" liquor control license.

Sec. 5. Section one hundred twenty-three point fifty-three (123.53), subsection one (1), Code 1979, is amended to read as follows:

1. There shall be established within the office of the treasurer of state a fund to be known as the beer and liquor control fund. The fund shall consist of any moneys appropriated by the general assembly for deposit in the fund and moneys received from the sale of alcoholic liquors by the department, from the issuance of permits and licenses, and of moneys and receipts received by the department from any other source.

Sec. 6. Section one hundred twenty-three point fifty-six (123.56), Code 1979, is amended to read as follows:

123.56 NATIVE WINES.

1. Notwithstanding any other provision of this chapter, but subject to section one hundred twenty-three point twenty-six (123.26), section one hundred twenty-three point twenty-seven (123.27), subsection two (2), section one hundred twenty-three point thirty (123.30), subsection three (3), paragraphs a, b, and c, section one hundred twenty-three point forty-nine (123.49), subsection two (2), paragraph d, and section one hundred twenty-three point ninety-six (123.96), subsection three (3), of the Code, and the rules of the department, manufacturers of native wines from grapes, cherries, other fruit juices, ~~or~~ vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, may sell, keep, or offer for sale and deliver ~~the same~~ native wines in ~~such~~ quantities as ~~may be~~ permitted by the director for consumption off the premises.

2. A manufacturer of native wines shall not sell such wines otherwise than as permitted by this section or allow any wine so sold, ~~or any part thereof,~~ to be drunk upon the premises of ~~such~~ the manufacturer. Any person may manufacture native wine for consumption on ~~his~~ the person's own premises.

3. For the purposes of this section "manufacturer" includes only those persons who process the fruit ~~or~~, vegetables, dandelions, clover, honey or any combination of these ingredients ferment, and bottle native wines in Iowa.

4. The director shall promulgate rules, subject to the approval of the council, which permit manufacturers of native wines to sell those native wines to class "A", class "B", and class "C" liquor control licensees, for consumption on the licensed premises. The rules shall provide for the assessment, collection, reporting and payment by the native wine manufacturer of a tax in lieu of the tax provided in section one hundred twenty-three point ninety-six (123.96) of the Code. Sales to class "A", class "B", and class "C" liquor control licensees by a native wine manufacturer are exempt from other sales tax. A native wine manufacturer selling native wine to a class "A", class "B", or class "C" liquor control licensee shall assess, collect, report and pay to the state, the in-lieu tax specified in this subsection.

Sec. 7. Section one hundred twenty-three point ninety-six (123.96), subsections one (1) and two (2), Code 1979, are amended to read as follows:

1. There Except as provided by section one hundred twenty-three point fifty-six (123.56), subsection four (4), of the Code, there is imposed on every person licensed to sell alcoholic beverages for consumption on the premises where sold, a special tax equivalent to fifteen percent of the price established by the department on all alcoholic beverages for general sale to the public. Such The tax shall be paid by all licensees at the point of purchase from the state on all alcoholic beverages intended or used for resale for consumption on the premises of retail establishments. Such The tax shall-be is in lieu of any other sales tax applied at the state store and shall be shown as a separate item on special sales slips provided by the department for purchases by licensees.

2. Except as allowed under section 123.95 ~~no~~ and, except as allowed under section one hundred twenty-three point fifty-six (123.56), subsection four (4), of the Code, a licensee shall not knowingly keep on the licensed premises nor use for resale purposes any alcoholic liquor on which the special tax has not been paid to the state. The conviction of a violation of this section shall cause the license held to automatically be revoked and the license shall immediately be surrendered by the holder, and the bond of the license holder shall be forfeited to the department.

Approved April 21, 1980