

February 17, 1955.
Safety and Law Enforcement.

House File 372
By DIETZ, PETRUCCELLI, BERGES-
SON, MILLER of Woodbury,
DUFFY, CARLSEN, and McCOY.

Passed House, Date.....
Vote: Ayes..... Nays.....
Passed Senate, Date.....
Vote: Ayes..... Nays.....
Approved

A BILL FOR

An Act designated and known as a revenue-producing liquor control law, to amend chapters one hundred twenty-three (123) and one hundred twenty-four (124), Code 1954, and to provide for the retail sale of products sold by Iowa state liquor stores under strict conditions on a county-option basis,

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

1 Section 1. Section one hundred twenty-four point thirty-one
2 (124.31), Code 1954, is hereby amended by inserting following the
3 comma in line ten (10) thereof the following: "to any licensee
4 holding a liquor license, nor".

1 Sec. 2 Section one hundred twenty-three point twenty-seven
2 (123.27), Code 1954, is hereby amended as follows:

3 By striking the word "two" (2) in line one (1) or subsection
4 one (1) and inserting in lieu thereof the word "three" (3).

5 By adding the following new paragraph: "c. Retail permits."

6 By adding the following:

7 "A 'retail permit' in form prescribed by the commission and
8 subject to its issuance and for use under such rules and
9 regulations as the commission may adopt, shall be issued to any
10 person, firm or corporation holding a valid liquor license."

1 Sec. 3. Section one hundred twenty-three point twenty-eight
2 (123.28), Code 1954, is hereby amended by adding thereto the
3 following:

4 "For a retail permit under section one hundred twenty-three
5 point twenty-seven (123.27) of the Code, the fee shall be ten
6 dollars (\$10.00) per year."

1 Sec. 4. Section one hundred twenty-three point five (123.5),
2 Code 1954, is hereby amended by adding thereto the following:

3 "Liquor licensee" shall mean any person, firm, corporation,
4 or association holding a license to sell wine and spirits by the
5 drink, and "Liquor license" shall mean such a license.

6 "Club" shall mean an association of persons incorporated
7 under the provisions of chapter five hundred four (504) of the
8 Code as a corporation not for pecuniary profit for the promotion
9 of some common object, owning, hiring or leasing a building or
10 space in a building suitable and adequate for the reasonable use
11 and accommodation of its members and their guests, and provided
12 with suitable and adequate kitchen and dining-room space and
13 equipment, implements and facilities, and employing a sufficient
14 number of servants or employees for cooking, preparing and
15 serving food and meals for its members and their guests. Such
16 club obtaining a license shall file with the issuing authority
17 annually, not later than December first of each year, a list of
18 the names and addresses of its members.

19 "Golf and Country Club" shall mean a club, as defined
20 immediately above, which regularly maintains a golf course

21 consisting of not fewer than six holes for the use of its members
22 and guests.

23 "Hotel" shall mean a business established and maintained for
24 the purpose of serving the public, furnishing lodging to transient
25 guests, having available not fewer than fifteen (15) rooms for
26 such purpose, and holding a valid hotel license issued by the
27 state of Iowa.

28 "Issuing authority" shall mean the council of incorporated
29 cities and towns in the case of such cities and towns; the board
30 of supervisors in the case of unincorporated villages and areas
31 outside such incorporated cities and towns; and the Iowa liquor
32 control commission in the case of a dining-car company, sleeping-
33 car company, railroad company, or railway company.

1 Sec. 5. If a petition shall be signed by the electors of
2 any county in such number as shall equal twenty-five per cent
3 (25%) of the votes cast in such county for governor at the last
4 general election, which shall request that the question of
5 licensing the sale of wine and spirits by the drink be submitted
6 to the electors thereof at a special election to be called for
7 that purpose, as hereinafter provided, and shall be filed with
8 the board of supervisors, the board shall cause to be published
9 once each week for four (4) weeks in succession in a newspaper of
10 general circulation in such county a notice of a special election
11 to be held not less than fifteen (15) nor more than thirty (30)
12 days from the date of the last publication. The notice shall
13 state the proposition to be submitted to the electors at such

14 special election. Each sheet of the petition shall contain not
15 more than thirty (30) names of electors with their personal
16 signatures, addresses, and the date of signing. If residing
17 within a city or town where the electors are required to be
18 registered, the signature shall be the same as it appears upon
19 the registration records. At the top of each sheet shall be
20 stated the proposition to be submitted. No signature on such
21 petition shall be valid unless appended to the petition with
22 the last ninety (90) days prior to the date of filing the
23 petition. At the bottom of each sheet of such petition shall be
24 the affidavit of the person who circulated same, stating that
25 the signatures on the petition were made in his presence, that
26 he has reasonable cause to believe that they are qualified
27 electors of the particular county, and that they are the
28 persons they represent themselves to be. Whoever signs any such
29 petition, knowing that he is not a qualified elector in the
30 county where such petition is made, or who aids or abets any
31 other person in doing any of the acts mentioned, or whoever
32 bribes, gives or pays any money or thing of value to any person
33 directly or indirectly, to induce him to sign such petition,
34 shall upon conviction thereof be punished by a fine of not
35 exceeding three hundred dollars (\$300.00) or by imprisonment in
36 the county jail not exceeding ninety (90) days or by both such
37 fine and imprisonment, in the discretion of the court.

1 Sec. 6. Upon the ballot the proposition shall be stated as
2 follows:

3 "Shall the retail sale of wines and spirits by the drink be
4 licensed in (here insert the name of the county)?"

5 YES

6 NO

1 Sec. 7. The provisions of the statutes of this state
2 relating to election of officers, voting places, election
3 apparatus and blanks, preparation and form of ballots, information
4 to voters, delivery of ballots, calling of elections, conduct of
5 elections, manner of voting, counting of votes, records and
6 certificates of election, and recount of votes, so far as
7 applicable, shall apply to voting on the proposition under the
8 provisions of this Act. If a majority of the ballots cast are
9 "YES", the board shall immediately adopt rules and regulations
10 providing for the issuance of licenses under the provisions of
11 this Act.

1 Sec. 8. No license shall be issued to any business in any
2 city or town unless the location thereof is as follows:

3 1. In cities and towns having a zoning ordinance, the
4 location shall be in an area zoned for retail business.

5 2. In cities and towns having no zoning ordinance, the
6 location shall be in an area where seventy-five per cent (75%) or
7 more of the frontage contiguous to the street and on each side
8 thereof for a distance of three hundred (300) feet or more, is
9 occupied by buildings used for business purposes.

10 3. Notwithstanding the provisions of subsections one (1)
11 and two (2) above, no liquor license shall be issued to any

12 business, except a hotel, which is located within three hundred
13 (300) feet of the lot line of any church, schoolhouse, character-
14 building institution, normal school, college or university.

15 4. The provisions of this section shall not prohibit the
16 sale of wines and spirits by the drink in any railway car
17 licensed under this Act.

1 Sec. 9. Except as hereinafter provided, power is hereby
2 granted to incorporated cities and towns to issue licenses within
3 their respective limits and to revoke the same for causes
4 hereinafter set forth or in the event the place of business of
5 the license holder is conducted in a disorderly manner.

1 Sec. 10. Except as hereinafter provided, power is hereby
2 granted to boards of supervisors to issue licenses in their
3 respective counties outside the incorporated limits of cities or
4 towns and to revoke the same for causes hereinafter set forth or
5 in the event the place of business of the license holder is
6 conducted in a disorderly manner.

1 Sec. 11. No license shall be issued to any club whose
2 officers and board of directors are not determined by an annual
3 election at which each member is entitled to an equal vote. If
4 these conditions are not fulfilled at any election subsequent to
5 the issuance of a license, the license shall not be renewed until
6 such time as an election has been held which fulfills the
7 requirements of this section.

1 Sec. 12. No license shall be issued to any club whose
2 manager holds office except by appointment by the board of

3 directors of the club, nor if such manager receives any
4 compensation other than a fixed salary in no way contingent upon
5 the receipts or profits of the club. The license of any club
6 which violates the provisions of this section shall be revoked.

1 Sec. 13. No license shall be issued to any club which does
2 not keep accurate and complete books and records of all receipts
3 and disbursements, and in the event a license is issued to any
4 club which thereafter fails or neglects to keep such books and
5 records, such license shall be revoked.

1 Sec. 14. No license shall be issued to any club which has
2 not been in existence for a period of one (1) year.

1 Sec. 15. The fee for a license issued by any city or town or
2 board of supervisors under this Act shall be one thousand dollars
3 (\$1,000.00) per annum, which fee shall be payable five hundred
4 dollars (\$500.00) to the commission, which shall credit the same
5 to the "liquor control act fund", and five hundred dollars
6 (\$500.00) to the general fund of the city, town or county issuing
7 the license. The fee for a license issued by the commission
8 under this Act shall be one thousand dollars (\$1,000.00) per
9 annum, which fee shall be payable to the commission and shall be
10 credited to the "liquor control act fund".

1 Sec. 16. If four (4) or more counties have voted to issue
2 licenses under the provisions of this Act, the commission may
3 issue to any dining-car company, sleeping-car company, railroad
4 company or railway company a license which shall authorize the
5 holder thereof to keep for sale and sell on any dining car,

6 sleeping car, buffet car or observation car on any train operated
7 by such applicant from a point outside the state of Iowa into or
8 across the state, or from a point in the state of Iowa to a point
9 outside the state, wine and spirits at retail for consumption in
10 such cars. The application for such license shall be in such
11 form and contain such information as may be required by the
12 commission. Each such license shall be good throughout the state
13 as a state license. Only one (1) such license shall be required
14 for all cars operated in this state by such applicant, but a
15 duplicate of such license shall be posted in each car in which
16 wines and spirits are sold. As a condition precedent to the
17 issuing of any such license, the applicant shall give bond to the
18 commission with good and sufficient sureties thereon to be
19 approved by the commission conditioned upon the faithful
20 performance of this Act in the penal sum of five thousand dollars
21 (\$5,000.00). In addition to the annual license fee of one
22 thousand dollars (\$1,000.00), there shall be paid to the
23 commission a fee of ten dollars (\$10.00) for each duplicate
24 thereof. The commission shall issue duplicates of such licenses
25 from time to time as applied for by each such company.

1 Sec. 17. No license shall be issued to any business in
2 which any official or employee of the issuing city or town, or
3 any member of his immediate family, is an officer, employee,
4 owner, partner or associate of any kind, or stockholder. It
5 shall be unlawful for any such official or employee or immediate
6 member of his family to own, hold or have any interest, directly

7 or indirectly, in any liquor licensee's business.

1 Sec. 18. Applications for liquor licenses shall be sworn to
2 and shall be on a form prepared by the commission and shall
3 include the following information:

4 1. The name, age, citizenship and place of residence of the
5 applicant in the case of individuals. In the case of applicants
6 other than individuals, the name and business address of the
7 applicant shall be given.

8 2. A description and location of the premises where the
9 applicant proposes to operate, with a detailed drawing and floor
10 plan of the premises or portion thereof which the license is to
11 include.

12 3. The name of the owner of the premises where the applicant
13 proposes to operate.

14 4. A statement of the applicant's occupations, including
15 location thereof, during the preceding twenty (20) years, in the
16 case of individuals.

17 5. A complete disclosure and statement of names of all
18 persons having any financial interest in said proposed business,
19 either directly or indirectly, whether secured or not.

1 Sec. 19. In the event, after issuance of a liquor license,
2 it is found that the application therefor contained any false
3 statement, such license shall be revoked.

1 Sec. 20. Upon the filing of the application, the issuing
2 authority shall fix a date for hearing thereon, which shall not
3 be earlier than fifteen (15) days from the filing of such

4 application, and shall give at least ten (10) days public notice
5 of the time and place of such hearing by publication in a
6 newspaper in the city or town. If no newspaper is published in
7 said city or town, then in some newspaper of general circulation
8 published in the county in which such city or town is located.

1 Sec. 21. The application shall be filed with the issuing
2 authority accompanied by a bond in the penal sum of five thousand
3 dollars (\$5,000.00) providing for a forfeiture thereof in the
4 event of a revocation of the license resulting from a violation of
5 any of the beer, liquor or gambling laws of the state of Iowa, the
6 provisions of this Act, or of any rule or regulation issued
7 pursuant to this Act. Said bond shall also be conditioned upon
8 payment by the applicant of all license fees, taxes or other
9 charges imposed for the operation of said business.

1 Sec. 22. The issuing authority may either approve or
2 disapprove any application. No application shall be approved
3 until the issuing authority has made a thorough investigation and
4 finds that the applicant, if an individual, is of good moral
5 character, and if other than an individual, possesses a good
6 reputation, and that the applicant's place of business conforms
7 to all laws of the state of Iowa, all health and fire regulations
8 applicable thereto, and all other applicable local ordinances,
9 rules, and regulations.

1 Sec. 23. After approval of an application for a license, the
2 issuing authority shall forward the application to the Iowa liquor
3 control commission, and no license shall be issued unless the

4 commission has approved the application.

1 Sec. 24. No license shall be issued to an applicant who has
2 been convicted of a felony, and a license shall be revoked in the
3 event a licensee is convicted of a felony.

1 Sec. 25 Licenses shall be for a period of one (1) year,
2 commencing on the first day of July and ending on June 30 following,
3 unless sooner revoked. Provided, however, that a license may be
4 issued for a portion of a year, and the license fees herein
5 provided shall be prorated.

1 Sec. 26. The issuance of a license shall be certified by
2 the issuing authority to the commission, except where the
3 commission itself issues such license, and the commission shall
4 keep a record of all licenses issued. The form of license shall
5 be prescribed by the commission.

1 Sec. 27. The commission shall sell wine and spirits at
2 wholesale to liquor licensees. Such wholesale price shall be five
3 per cent (5%) below Iowa liquor store retail prices. There shall
4 be no tax on the purchase price of wine and spirits purchased by
5 licensees, but there shall be a ten per cent (10%) sales tax on
6 each sale of liquor or wine by the licensee, which tax shall be
7 paid to the state tax commission for the general fund of the state
8 of Iowa.

1 Sec. 28. In addition to ordinances, rules and regulations
2 prescribed by the issuing authority, every licensee shall be
3 subject to the following:

4 1. No wine or spirits shall be sold except for consumption

5 upon the premises described in detail in the application of the
6 licensee.

7 2. All wine and spirits shall be purchased from the
8 commission and after delivery by the commission shall be kept by
9 the licensee only at the place of business and must at all times
10 be kept in the original bottles in which it is received from the
11 commission, until sold for immediate consumption. Provided,
12 however, that the provisions of this subsection shall not apply
13 to licensees whose license has been issued by the commission under
14 the provisions of section sixteen (16) of this Act.

15 3. No wine or spirits shall be sold on Sunday; nor shall
16 wine or spirits be sold on any of the legal holidays designated
17 in section five hundred forty-one point eighty-five (541.85) of
18 the Code.

19 4. No licensee shall sell, dispense, deliver or give in any
20 manner any wine or spirits to any intoxicated or interdicted
21 person, nor permit any person to consume on the licensed premises
22 any wine or spirits except those supplied to such persons by the
23 licensee in accordance with the provisions of this Act, his
24 license, and any ordinances, rules or regulations for the
25 enforcement thereof. No licensee or employee thereof shall sell
26 or deliver any wine or spirits to any person who is a minor, nor
27 permit any minor to consume any wine or spirits on the licensed
28 premises. No more than one (1) drink or portion of spirits shall
29 be delivered to any person at any one time, nor in any package,
30 receptacle or container, except the glass or container containing

31 only the drink to be consumed, excepting that wine may be served
32 by the bottle. No purchaser thereof shall remove such drink or
33 bottle contents from the licensed premises where purchased before
34 drinking the same. The licensee shall conduct the business in a
35 quiet orderly manner. No minor, intoxicated or interdicted
36 person shall knowingly be permitted to purchase, consume or
37 remove any wine or spirits on or from the licensed premises.

38 5. No licensee shall carry on the business of selling wine
39 or spirits unless his license is prominently displayed in the
40 place of business.

41 6. No license shall be assigned or transferred.

42 7. Premises, other than the dining-room of a hotel, shall
43 afford a clear and unobstructed view into the interior of the
44 place where wines and spirits are sold.

1. Sec. 29. The issuing authority shall make an investigation
2 of any alleged violation for the purpose of revoking any license
3 if there is reasonable evidence that the holder thereof shall
4 have violated any of the provisions of this Act or of any
5 applicable ordinance, rule or regulation.

1 Sec. 30. It shall be the duty of all peace officers to
2 investigate any alleged violations of the provisions of this
3 Act, and any member of the state permit board created under the
4 provisions of section one hundred twenty-four point three (124.3)
5 of the Code or any representative or inspector so designated by
6 such board shall have the power of a peace officer for this purpose.

1 Sec. 31. Any citizen of a city or town or county having

2 information of any violation by the holder of a license in such
3 city or town or county may, and any peace officer having such
4 information shall, file a complaint with the appropriate issuing
5 authority. A copy of such complaint shall be filed with the
6 county attorney who shall thereupon cause an investigation to be
7 made and report the findings thereof to the appropriate issuing
8 authority. If the county attorney finds that a violation has
9 occurred, the appropriate issuing authority shall cite the alleged
10 violator to appear at a hearing and show cause why the license
11 should not be revoked and the bond forfeited. Such alleged
12 violator shall be required to appear at such time as said issuing
13 authority shall determine and not more than thirty (30) days after
14 such citation. At the time of citing such alleged violator, the
15 issuing authority may, if the facts and circumstances warrant,
16 temporarily suspend the license of the alleged violator and direct
17 the peace officer serving the order to take possession of the
18 alleged violator's license and return the same to the issuing
19 authority pending the outcome of the hearing. Following the
20 hearing, the issuing authority shall determine whether the license
21 shall be revoked and the bond forfeited. In the event such
22 determination is adverse to the licensee, the determination shall
23 be reviewed by the commission, which shall grant an appropriate
24 hearing to the alleged violator. The determination of the
25 commission shall be final and may be appealed from only by filing
26 an appropriate action in the district court.

1 Sec. 32. The revocation proceedings provided for above

2 shall not be a bar to any criminal prosecution, nor shall such
3 proceedings affect the right of a city or town or board of
4 supervisors to proceed against the bond of a licensee for
5 nonpayment of any taxes or license fees owing under the provisions
6 of this Act.

1 Sec. 33. In the event that the result of the special election
2 as hereinabove provided is favorable to the issuing of licenses
3 for retail sales of spirits and liquor, no other special election
4 on the proposition may be held for a period of two (2) years.
5 Such subsequent special election may be called if a petition shall
6 be signed by the electors of the county in such number as shall
7 equal twenty-five per cent (25%) of the votes cast in such county
8 for governor at the last general election, which shall request
9 that the question of terminating the licensing of the sale of
10 wine and spirits by the drink be submitted to the electors
11 thereof at a special election to be called in the manner provided
12 for by Sections five (5), six (6), and seven (7) of this Act. If
13 a majority of the ballots cast are "NO", all licenses, ordinances,
14 rules, and regulations theretofore issued under the provisions of
15 this Act shall be terminated on June 30 following such election.

1 Sec. 34. Whenever the provisions of existing laws are in
2 conflict with the provisions of this Act, the provisions of this
3 Act shall control and supersede all such existing laws.

1 Sec. 35. Any person who violates any of the provisions of
2 this Act or who makes a false statement concerning a material
3 fact in submitting an application for a license or for a renewal

4 of a license, or gives false testimony at any hearing concerning
 5 the revocation of a license shall be punished by a fine of not
 6 less than three hundred dollars (\$300.00) and not more than one
 7 thousand dollars (\$1,000.00), or by imprisonment in the county
 8 jail for not less than three (3) months nor more than one (1)
 9 year, or by both such fine and imprisonment.

1 Sec. 36. This Act being deemed of immediate importance
 2 shall be in full force and effect upon passage and publication in
 3 the, a newspaper published at
 4, Iowa, and in the, a
 5 newspaper published at, Iowa.

EXPLANATION OF H. F. 372

This bill is primarily a revenue-raising measure and has been designed to help the state of Iowa meet the serious need for services demanded by the people of Iowa, as recently outlined in the Governor's budget message. If this bill becomes law, revenue will be recaptured from the states surrounding Iowa to which it has been flowing. Taxpayers who are alarmed at the ever-increasing demands of the state upon their pocketbooks are looking to the legislators for leadership in using non-tax sources of meeting the state's revenue problems—especially when these sources represent revenue being lost to other states.

The bill is also designed to provide a law which will be self-enforcing, thus reducing rather than adding to the administrative costs of law enforcement. This, of course, is in keeping with the demands by taxpayers for economy in government.

The bill recognizes that the problems of juvenile delinquency are being multiplied by the present law, which encourages disrespect and violation merely by driving over a state line into a neighboring state. It recognizes further that the problem of the drunken driver, which our governor has stressed so emphatically, will be greatly lessened by a law which will insure revocation of an expensive license if drinks are sold beyond a person's capacity; whereas under the present law, the tendency is to consume an entire bottle purchased at the state-owned liquor store or to consume beyond one's capacity in a neighboring state.

The bill recognizes that decisions with respect to the issues of liquor-by-the-drink, better law enforcement, reduced juvenile delinquency and reduced drunken driving should (following a vote of the local citizens) be left to local governing bodies elected by the people—city council and county board of supervisors. Ultimate approval of licenses is vested in the State Liquor Control Commission, thus insuring uniformity throughout the state.

Technical provisions of the bill relate solely to the licensing and retail sale of products sold by our Iowa state liquor stores.