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Keys and Moore 2-7-73

Schwengels, Chairman
Hill
Potter

By KELLY, ROBINSON, TIEDEN,
PRIEBE, SCHWIEGER, HEYING,
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HULTMAN, KINLEY, POTTER,
DODERER, CURTIS, ORR,
GLUBA, MILLER of Des Moines,
GALLAGHER, JUNKINS and RILEY
(Trowbridge, Knoke, Jesse,
Doyle, Wells, McElroy,
Lipsky, Hargrave, Newhard,
Clark of Dubuque and
Patchett)

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

A BILL FOR

1 An Act relating to the private sale, control, distribution
2 and taxation of wine containing not more than seventeen
3 percent alcohol by weight, declaring certain acts
4 relating to wine to be unlawful and prescribing penalties
5 therefor.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section one hundred twenty-three point one
2 (123.1), Code 1973, is amended to read as follows:

3 123.1 PUBLIC POLICY DECLARED. This chapter shall be cited
4 as the "Iowa Beer, Wine and Liquor Control Act", and shall
5 be deemed an exercise of the police power of the state, for
6 the protection of the welfare, health, peace, morals, and
7 safety of the people of the state, and all its provisions
8 shall be liberally construed for the accomplishment of that
9 purpose, and it is declared to be public policy that the traf-
10 fic in alcoholic liquors is so affected with a public interest
11 that it should be regulated to the extent of prohibiting all
12 traffic in them, except as provided in this chapter.

13 Sec. 2. Section one hundred twenty-three point two (123.2),
14 Code 1973, is amended to read as follows:

15 123.2 GENERAL PROHIBITION. It shall be unlawful to manu-
16 facture for sale, sell, offer or keep for sale, possess, or
17 transport alcoholic liquor, wine or beer except upon the
18 terms, conditions, limitations, and restrictions enumerated
19 in this chapter.

20 Sec. 3. Section one hundred twenty-three point three
21 (123.3), subsections four (4), seven (7), eight (8), and ten
22 (10), Code 1973, are amended to read as follows:

23 4. "Local authority" means the city or town council of
24 any incorporated city or town in this state, or the county
25 board of supervisors of any county in this state, which is
26 empowered by this chapter to approve or deny applications
27 for retail beer or wine permits and liquor control licenses;
28 to recommend that such permits or licenses be granted and
29 issued by the department; and to take such other actions as
30 are reserved to them by this chapter.

31 7. "Wine" means any beverage containing alcohol obtained
32 by the fermentation of the natural sugar contents of fruits
33 or other agricultural products and containing not more than
34 seventeen percent alcohol by weight.

35 8. "Alcoholic liquor", "alcoholic beverage" or "intoxi-

1 cating liquor" includes the ~~three~~ two varieties of liquor
2 defined in subsections ~~57-67-and-7~~ five (5) and six (6) of
3 this section, except beer as defined in subsection 9 of this
4 section but including all beverages made as described in such
5 subsection which contain more than four percent of alcohol
6 by weight, and every liquid or solid, patented or not, con-
7 taining alcohol, spirits, or wine containing more than seven-
8 teen percent alcohol by weight, and susceptible of being con-
9 sumed by a human being, for beverage purposes.

10 10. "Person" means any individual, association, partner-
11 ship, corporation, club, hotel or motel, or municipal corpo-
12 ration owning or operating a bona fide airport, marina, park,
13 coliseum, auditorium, or recreational facility in or at which
14 the sale of alcoholic liquor, wine or beer is only an inci-
15 dental part of such ownership or operation.

16 Sec. 4. Section one hundred twenty-three point three
17 (123.3), subsection eleven (11), paragraph c, Code 1973, is
18 amended to read as follows:

19 c. He is not prohibited by the provisions of section
20 123.40 from obtaining a liquor control license, wine or beer
21 permit.

22 Sec. 5. Section one hundred twenty-three point three
23 (123.3), subsections thirteen (13), seventeen (17), nineteen
24 (19), twenty (20), twenty-five (25), twenty-six (26), twenty-
25 seven (27), and thirty-one (31), Code 1973, are amended to
26 read as follows:

27 13. "Permit" or "license" means an express written autho-
28 rization issued by the department for the manufacture or sale,
29 or both, of alcoholic liquor, wine or beer.

30 17. "Distillery", "winery", and "brewery" means not only
31 the premises wherein alcohol or spirits is distilled, or rec-
32 tified wine is fermented, or beer is brewed, but in addition
33 a person owning, representing, or in charge of such premises
34 and the operations conducted thereon, including the blending
35 and bottling or other handling and preparation of alcoholic

1 liquor, wine or beer in any form.

2 19. "Importer" means the person transporting or ordering,
3 authorizing, or arranging the transportation of alcoholic
4 liquor, wine or beer into this state whether such person is
5 a resident of this state or not.

6 20. "Import" means the transporting or ordering or ar-
7 ranging the transportation of alcoholic liquor, wine or beer
8 into this state whether by a resident of this state or not.

9 25. The prohibited "sale" of alcoholic liquor, wine or
10 beer under this chapter includes soliciting for sales, taking
11 orders for sales, keeping or exposing for sale, delivery or
12 other trafficking for a valuable consideration promised or
13 obtained, and procuring or allowing procurement for any other
14 person.

15 26. "Wholesaler" means any person, other than a vintner,
16 brewer or bottler of beer or wine, who shall sell, barter,
17 exchange, offer for sale, have in possession with intent to
18 sell, deal or traffic in alcoholic liquor, wine or beer.
19 No wholesaler shall be permitted to sell for consumption upon
20 the premises.

21 27. "Retailer" means any person who shall sell, barter,
22 exchange, offer for sale, or have in possession with intent
23 to sell any alcoholic liquor for consumption on the premises
24 where sold, or beer or wine for consumption either on or off
25 the premises where sold.

26 31. "Licensed premises" or "premises" means all rooms
27 or enclosures where alcoholic beverages, wine or beer are
28 sold or consumed under authority of a liquor control license,
29 wine or beer permit.

30 Sec. 6. Section one hundred twenty-three point three
31 (123.3), Code 1973, is amended by adding the following new
32 subsection:

33 NEW SUBSECTION. "Retail wine permit" means a class "B"
34 or class "C" wine permit issued under the provisions of this
35 chapter.

1 Sec. 7. Section one hundred twenty-three point four
2 (123.4), Code 1973, is amended to read as follows:

3 123.4 DEPARTMENT CREATED--PLACE OF BUSINESS. There is
4 hereby created an Iowa beer and liquor control department
5 to administer and enforce the laws of this state concerning
6 beer, wine and alcoholic liquor. The principal place of
7 business of the department shall be in the city of Des Moines,
8 and suitable quarters or offices shall be provided the de-
9 partment in such city by the authority designated by law to
10 provide such quarters or offices to state departments or
11 agencies.

12 Sec. 8. Section one hundred twenty-three point fourteen
13 (123.14), subsections one (1) and three (3), Code 1973, are
14 amended to read as follows:

15 1. The division of beer and liquor law enforcement of
16 the department of public safety, created pursuant to section
17 80.25, shall be the primary beer, wine and liquor law en-
18 forcement authority for this state.

19 3. The division of beer and liquor law enforcement shall
20 be allowed full access to all records, reports, audits, tax
21 reports and all other documents and papers in the department
22 pertaining to liquor licensees, wine and beer permittees and
23 their business.

24 Sec. 9. Section one hundred twenty-three point fifteen
25 (123.15), Code 1973, is amended to read as follows:

26 123.15 HEARING BOARD ESTABLISHED. There is hereby created
27 a three-member hearing board for the purpose of conducting
28 departmental hearings relating to controversies concerning
29 the issuance, suspension, or revocation of special liquor
30 permits, liquor control licenses, wine and beer permits
31 authorized under this chapter. One member shall be appointed
32 by the council from its membership, which member may be peri-
33 odically replaced by appointment of another council member;
34 one member shall be the attorney general or his designee;
35 and one member shall be the commissioner of public safety

1 or his designee. The hearing board shall establish and adopt
2 rules and procedures for conducting departmental hearings
3 under this chapter.

4 Sec. 10. Section one hundred twenty-three point sixteen
5 (123.16), subsection two (2), paragraph b, Code 1973, is
6 amended to read as follows:

7 b. The granting or refusing of liquor licenses and per-
8 mits, wine and beer permits, and the suspension or revoca-
9 tion of such licenses and permits.

10 Sec. 11. Section one hundred twenty-three point eighteen
11 (123.18), Code 1973, is amended to read as follows:

12 123.18 FAVORS FROM LICENSEE OR PERMITTEE. No person re-
13 sponsible for the administration or enforcement of this chap-
14 ter shall accept or solicit donations, gratuities, political
15 advertising, gifts, or other favors, directly or indirectly,
16 from any liquor control licensee, wine or beer permittee.
17 A violation of this section shall subject the violator to
18 the general penalties provided by this chapter.

19 Sec. 12. Section one hundred twenty-three point nineteen
20 (123.19), subsection one (1), Code 1973, is amended to read
21 as follows:

22 1. Any manufacturer, distiller, ~~vintner~~, or importer of
23 alcoholic beverages shipping, selling, or having alcoholic
24 beverages brought into this state for resale by the state
25 shall, as a condition precedent to the privilege of so traf-
26 ficking in alcoholic liquors in this state, annually make
27 application for and shall hold a distiller's certificate of
28 compliance which shall be issued by the director for such
29 purpose. No brand of alcoholic liquor shall be sold by the
30 department in this state unless the manufacturer, distiller,
31 ~~vintner~~ importer, and all other persons participating in
32 the distribution of such brand in this state have obtained
33 such certificate. Such certificate of compliance shall ex-
34 pire at the end of one year from the date of issuance and
35 shall be renewed for a like period upon application to the

1 director unless otherwise suspended or revoked for cause.
2 Each application for a certificate of compliance or renewal
3 thereof shall be made in such manner and upon such forms as
4 shall be prescribed by the director and shall be accompanied
5 by a fee of fifty dollars payable to the department. How-
6 ever, the provisions of this subsection need not apply to
7 a manufacturer, distiller, ~~vintner~~, or importer who ships
8 or sells in this state no more than eleven gallons or its
9 case equivalent during any fiscal year as a result of "spe-
10 cial orders" which might be placed, as defined and allowed
11 by departmental rules adopted under this chapter.

12 Sec. 13. Section one hundred twenty-three point twenty-
13 one (123.21), subsections six (6) and ten (10), Code 1973,
14 are amended to read as follows:

15 6. Providing for the issuing and distributing of price
16 lists showing the price to be paid by purchasers for each
17 brand, class, or variety of liquor kept for sale under this
18 chapter. Provide for the filing or posting of prices be-
19 tween class "A" beer and wine permit holders and retailers
20 as provided in this chapter, and establish or control such
21 prices as may be based on minimum standards of fill, quantity,
22 or alcoholic content for each individual sale of intoxicating
23 liquor, wine or beer as deemed necessary for retail or con-
24 sumer protection.

25 10. Prescribing the time, manner, means, and method by
26 which distillers, ~~vintners~~, vendors, or others authorized
27 under this chapter may deliver or transport alcoholic liquors
28 and prescribing the time, manner, means, and methods by which
29 alcoholic liquor may be lawfully conveyed, carried, or trans-
30 ported.

31 Sec. 14. Section one hundred twenty-three point twenty-
32 two (123.22), unnumbered paragraph one (1), Code 1973, is
33 amended to read as follows:

34 The department shall have the sole and exclusive right
35 of importation, into the state, of all forms of alcoholic

1 liquor, except as otherwise provided in this chapter, and
2 no person shall so import any such alcoholic liquor, except
3 that an individual of legal age may import and have in his
4 possession an amount of alcoholic liquor not exceeding one
5 quart or, in the case of alcoholic liquor personally obtained
6 outside the United States, one gallon for personal consump-
7 tion only in a private home or other private accommodation.
8 No distillery shall sell any alcoholic liquor within the state
9 to any person but only to the department, except as otherwise
10 provided in this chapter. It is the intent of this section
11 to vest in the department exclusive control within the state
12 both as purchaser and vendor of all alcoholic liquor sold
13 by distilleries within the state or imported therein, except
14 beer and wine, and except as otherwise provided in this
15 chapter.

16 Sec. 15. Section one hundred twenty-three point twenty-
17 nine (123.29), subsection four (4), paragraph c, Code 1973,
18 is amended to read as follows:

19 c. That neither the applicant, if he is an individual,
20 nor any members of the firm or officers of the corporation,
21 if the applicant is not an individual, has been convicted
22 of any violation of the laws of this state with reference
23 to the sale of alcoholic liquors, wine or beer within the
24 three years preceding the date of the affidavit.

25 Sec. 16. Section one hundred twenty-three point thirty
26 (123.30), subsection three (3), paragraphs a, b, c, and d,
27 Code 1973, are amended to read as follows:

28 a. CLASS "A". A class "A" liquor control license may
29 be issued to a club and shall authorize the holder to pur-
30 chase alcoholic liquors from the department only, and to sell
31 such liquors, wine and beer, to bona fide members and their
32 guests by the individual drink for consumption on the premises
33 only.

34 b. CLASS "B". A class "B" liquor control license may
35 be issued to a hotel or motel and shall authorize the holder

1 to purchase alcoholic liquors from the department only, and
2 to sell such liquors, wine and beer, to patrons by the in-
3 dividual drink for consumption on the premises only, however,
4 wines and beer may also be sold for consumption off the
5 premises. Each such license shall be effective throughout
6 the premises described in the application.

7 c. CLASS "C". A class "C" liquor control license may
8 be issued to a commercial establishment but must be issued
9 in the name of the individual or individuals who actually
10 own the entire business and shall authorize the holder or
11 holders to purchase alcoholic liquors from the department
12 only, and to sell such liquors, wine and beer, to patrons by
13 the individual drink for consumption on the premises only,
14 however, wine and beer may also be sold for consumption off
15 the premises.

16 d. CLASS "D". A class "D" liquor control license may
17 be issued to a railway corporation, to an air common carrier,
18 and to passenger-carrying boats or ships for hire with a ca-
19 pacity of twenty-five persons or more operating in inland
20 or boundary waters, and shall authorize the holder to sell
21 or furnish alcoholic beverages, wine and beer to passengers
22 for consumption only on trains, watercraft as described here-
23 in, or aircraft, respectively. Each such license shall be
24 valid throughout the state as a state license. Only one such
25 license shall be required for all trains, watercraft, or air-
26 craft operated in the state by the licensee.

27 Sec. 17. Section one hundred twenty-three point thirty-
28 two (123.32), subsections one (1), two (2), four (4), and
29 five (5), Code 1973, are amended to read as follows:

30 1. FILING OF APPLICATION. An application for a class
31 "A", class "B", or class "C" liquor control license, and for
32 a retail beer permit as provided in sections 123.128 and
33 123.129, or for a retail wine permit as hereinafter provided
34 accompanied by the required fee and bond, shall be filed with
35 the appropriate city or town council if the premises for which

1 the license or permit is sought are located within the corpo-
2 rate limits of a city or town, or with the board of supervi-
3 sors if the premises for which the license or permit is sought
4 are located outside the corporate limits of a city or town.
5 An application for a class "D" liquor control license and
6 for a class "A" beer or wine permit, accompanied by the re-
7 quired fee and bond, shall be filed with the department, which
8 shall proceed in the same manner as in the case of an appli-
9 cation approved by local authorities.

10 2. ACTION BY LOCAL AUTHORITIES. The local authority shall
11 either approve or disapprove the issuance of a liquor control
12 license or retail wine or beer permit, and shall endorse such
13 approval or disapproval on the application and forward same
14 along with the required fee and bond to the department. Upon
15 the initial issuance of a liquor control license or retail
16 beer or wine permit, the fact that the local authority
17 determines that no liquor control license or retail beer or
18 wine permit shall be issued shall not be held to be arbi-
19 trary, capricious, or without reasonable cause. There shall
20 be no limit upon the number of liquor control licenses or
21 retail beer or wine permits which may be approved for issu-
22 ance by local authorities.

23 4. APPEAL TO HEARING BOARD. Any applicant for a liquor
24 control license, wine or beer permit may appeal to the de-
25 partment hearing board, established pursuant to section 123.15,
26 from the director's disapproval of an application for a li-
27 cense or permit. If, upon such appeal the hearing board shall
28 determine that the local authority acted arbitrarily, capri-
29 ciously, or without reasonable cause in disapproving the ap-
30 plication, or that, where the local authority approved the
31 application, the director's own disapproval should be reversed,
32 it shall order issuance of a license or permit. The same
33 right of appeal to the hearing board shall be afforded a li-
34 quor control licensee, wine or beer permittee whose license
35 or permit has been suspended or revoked under this chapter,

1 and the hearing board shall reduce the period of suspension
2 or order reinstatement of such license or permit for good
3 cause shown.

4 5. APPEAL TO COURTS. Any applicant who feels aggrieved
5 by a decision of the director or local authority disapprov-
6 ing, suspending, or revoking issuance of a liquor control
7 license, wine or beer permit may, provided he has exercised
8 his right of appeal to the hearing board as provided in sub-
9 section 4 of this section, appeal from said decision within
10 ten days to the district court of the county wherein the prem-
11 ises covered by the application are situated.

12 Where the hearing board on an appeal by an applicant finds
13 that the local authority acted arbitrarily, capriciously,
14 or without reasonable cause in disapproving an application
15 and the director issues a license or permit, the local author-
16 ity may appeal from such decision within ten days to the dis-
17 trict court of the county wherein the premises covered by
18 the application are situated.

19 Sec. 18. Section one hundred twenty-three point thirty-
20 three (123.33), Code 1973, is amended to read as follows:

21 123.33 RECORDS. Every holder of a liquor control license
22 shall keep a daily record of the gross receipts of his busi-
23 ness. Each bottle emptied, except beer or wine bottles, shall
24 be broken immediately by the licensee or his agent into a
25 container provided for that purpose. The records herein
26 required and the premises of the licensee shall be open to
27 agents of the division of beer and liquor law enforcement
28 of the department of public safety during normal business
29 hours of the licensee.

30 Sec. 19. Section one hundred twenty-three point thirty-
31 four (123.34), Code 1973, is amended to read as follows:

32 123.34 EXPIRATION--SEASONAL LICENSE OR PERMIT. All li-
33 quor control licenses, wine and beer permits, unless sooner
34 suspended or revoked, shall expire one year from date of is-
35 suance. The director shall cause sixty days' notice of such

1 expiration to be given to each licensee or permittee in writ-
2 ing. However, the director may issue six-month or eight-month
3 seasonal licenses or class "B" beer or wine permits for a
4 proportionate part of the license or permit fee. No refund
5 shall be made for seasonal licenses or permits. No seasonal
6 license or permit shall be renewed except after a period of
7 two months.

8 Sec. 20. Section one hundred twenty-three point thirty-
9 five (123.35), Code 1973, is amended to read as follows:

10 123.35 SIMPLIFIED RENEWAL PROCEDURE. The director shall
11 prescribe simplified application forms for the renewal of
12 liquor control licenses, wine and beer permits issued under
13 the provisions of this chapter, which may be filed by licen-
14 sees and permittees in lieu of a detailed renewal application
15 form when qualifications and qualification information have
16 not changed since the original issuance of the license or
17 permit. Such simplified form shall require the licensee or
18 permittee to verify under oath that the information contained
19 in the original application remains current, and that no rea-
20 son exists for the department's refusal to renew the license
21 or permit as originally issued.

22 Such application, accompanied by the required fee and bond,
23 shall be filed in the same manner as is provided for filing
24 the initial application.

25 Sec. 21. Section one hundred twenty-three point thirty-
26 six (123.36), subsection two (2), Code 1973, is amended to
27 read as follows:

28 2. Class "A" liquor control licenses, the sum of six hun-
29 dred dollars, except that for class "A" licenses in towns
30 of less than two thousand population, and for clubs of less
31 than two hundred fifty members, the license fee shall be four
32 hundred dollars; however, the fee shall be two hundred dol-
33 lars for any club which is a post, branch, or chapter of a
34 veterans organization chartered by the Congress of the United
35 States, if such club does not sell or permit the consumption

1 of alcoholic beverages or wine on the premises more than one
2 day in any week, and if the application for a license states
3 that such club does not and will not sell or permit the con-
4 sumption of alcoholic beverages or wine on the premises more
5 than one day in any week.

6 Sec. 22. Section one hundred twenty-three point thirty-
7 seven (123.37), Code 1973, is amended to read as follows:

8 123.37 POWER TO LICENSE AND LEVY TAXES. The power to
9 establish licenses and permits and levy taxes as imposed in
10 title VI of the Code is vested exclusively with the state.
11 Unless specifically provided, no local authority shall levy
12 a local tax on the sale of alcoholic beverages, wine or beer,
13 require the obtaining of a special license or permit for such
14 sale on any establishment, or require the obtaining of a li-
15 cense by any person as a condition precedent to his employ-
16 ment in the sale, serving, or handling of alcoholic beverages,
17 wine or beer within an establishment operating under a li-
18 cense or permit.

19 Sec. 23. Section one hundred twenty-three point thirty-
20 eight (123.38), unnumbered paragraphs one (1) and two (2),
21 Code 1973, are amended to read as follows:

22 A special liquor permit, liquor control license, wine or
23 beer permit shall be a purely personal privilege and be re-
24 vocable for cause. It shall not constitute property nor be
25 subject to attachment and execution nor be alienable nor as-
26 signable, and in any case it shall cease upon the death of
27 a permittee or licensee. However, the director may in his
28 discretion allow the executor or administrator of a permittee
29 or licensee to operate the business of the decedent for a
30 reasonable time not to exceed the expiration date of the per-
31 mit or license. Every permit or license shall be issued in
32 the name of the applicant and no person holding a permit or
33 license shall allow any other person to use same.

34 Any such licensee or permittee, or his executor, adminis-
35 trator, or any person duly appointed by the court to take

1 charge of and administer the property or assets of the li-
2 censee or permittee for the benefit of his creditors, may
3 voluntarily surrender such license or permit to the depart-
4 ment and when so surrendered the department shall notify the
5 local authority, and the department and such local authority,
6 or the local authority by itself in the case of a retail beer
7 permit, or the department by itself in the case of being the
8 sole issuing authority for licenses and permits and for the
9 money it retains for wine permits, shall refund to the per-
10 son so surrendering the license or permit a proportionate
11 amount of the fee paid for such license or permit as follows:
12 If surrendered during the first three months of the period
13 for which said license or permit was issued the refund shall
14 be three-fourths of the amount of the fee; if surrendered
15 more than three months but not more than six months after
16 issuance the refund shall be one-half of the amount of the
17 fee; if surrendered more than six months but not more than
18 nine months after issuance the refund shall be one-fourth
19 of the amount of the fee. No refund shall be made, however,
20 for any special liquor permit, nor for a liquor control
21 license, wine or beer permit surrendered more than nine months
22 after issuance. No refund shall be made to any licensee or
23 permittee, upon the surrender of his license or permit, if
24 there is at the time of said surrender a complaint filed with
25 the department or local authority, charging him with a
26 violation of the provisions of this chapter. If upon hearing
27 on any such complaint the license or permit is not revoked
28 or suspended, then the licensee or permittee shall be eligible,
29 upon surrender of his license or permit, to receive a refund
30 as herein provided. But if his license or permit is revoked
31 or suspended upon such hearing he shall not be eligible for
32 the refund of any portion of his license or permit fee.

33 Sec. 24. Section one hundred twenty-three point thirty-
34 nine (123.39), Code 1973, is amended to read as follows:

35 123.39 SUSPENSION OR REVOCATION OF LIQUOR LICENSE, WINE

1 OR BEER PERMIT. Any liquor control license, wine or beer
2 permit issued under this chapter may, after notice in writing
3 to the license or permit holder and reasonable opportunity
4 for hearing, and subject to section 123.50 where applicable,
5 be suspended for a period not to exceed one year or revoked
6 by the local authority or the director for any of the follow-
7 ing causes:

8 1. Misrepresentation of any material fact in the appli-
9 cation for such license or permit.

10 2. Violation of any of the provisions of this chapter.

11 3. Any change in the ownership or interest in the busi-
12 ness operated under a class "A", class "B", or class "C" li-
13 quor control license, or any wine or beer permit which change
14 was not previously reported to and approved by the local
15 authority and the department.

16 4. An event which would have resulted in disqualification
17 from receiving such license or permit when originally issued.

18 5. Any sale, hypothecation, or transfer of such license
19 or permit.

20 6. The failure or refusal on the part of any licensee
21 or permittee to render any report or remit any taxes to the
22 department under this chapter when due.

23 Local authorities shall have the power to suspend any re-
24 tail wine or beer permit or liquor control license for a
25 violation of any ordinance or regulation adopted by such lo-
26 cal authority. Local authorities are empowered to adopt or-
27 dinances or regulations for the location of the premises of
28 retail wine or beer and liquor control licensed establish-
29 ments and are empowered to adopt ordinances, not in conflict
30 with the provisions of this chapter and that do not diminish
31 the hours during which beer, wine or alcoholic beverages may
32 be sold or consumed at retail, governing any other activities
33 or matters which may affect the retail sale and consumption
34 of beer, wine and alcoholic liquor and the health, welfare
35 and morals of the community involved.

1 Sec. 25. Section one hundred twenty-three point forty
2 (123.40), Code 1973, is amended to read as follows:

3 123.40 EFFECT OF REVOCATION. Any liquor control licensee,
4 wine or beer permittee whose license or permit is revoked
5 under this chapter shall not thereafter be permitted to hold
6 a liquor control license, wine or beer permit in the state
7 of Iowa for a period of two years from the date of such
8 revocation. The spouse and business associates holding ten
9 percent or more of the capital stock or ownership interest
10 in the business of a person whose license or permit has been
11 revoked shall not be issued a liquor control license, wine
12 or beer permit, and no liquor control license, wine or beer
13 permit shall be issued which covers any business in which
14 such person has a financial interest for a period of two years
15 from the date of such revocation. In the event a license
16 or permit is revoked the premises which had been covered by
17 such license or permit shall not be relicensed for one year.

18 Sec. 26. Section one hundred twenty-three point forty-
19 four (123.44), Code 1973, is amended to read as follows:

20 123.44 GIFT OF LIQUORS PROHIBITED. No manufacturer or
21 wholesaler shall give away any alcoholic liquor of any kind
22 or description at any time in connection with his business
23 except for testing or sampling purposes only. No manufac-
24 turer, vintner, wholesaler, or importer, organized as a cor-
25 poration pursuant to the laws of this state or any other
26 state, and who deals in alcoholic liquor, wine or beer subject
27 to this chapter shall offer or give anything of value to any
28 council member, official or employee of the department or
29 directly or indirectly contribute in any manner any money
30 or thing of value to any person seeking a public or appoint-
31 ive office or any recognized political party or a group of
32 persons seeking to become a recognized political party.

33 Sec. 27. Section one hundred twenty-three point forty-
34 five (123.45), Code 1973, is amended to read as follows:

35 123.45 INTEREST IN LIQUOR BUSINESS. No council member

1 or department employee shall, directly or indirectly, indi-
2 vidually, or as a member of a partnership or shareholder in
3 a corporation, have any interest in dealing in or in the manu-
4 facture of alcoholic liquor, wine or beer nor receive any
5 kind of profit nor have any interest in the purchase or sale
6 of alcoholic liquor, wine or beer by persons so authorized
7 under this chapter except that this provision shall not pre-
8 vent any such member or employee from lawfully purchasing
9 and keeping alcoholic liquor, wine or beer in his possession
10 for personal use.

11 No person engaged in the business of manufacturing, bot-
12 tling, or wholesaling alcoholic beverages, wine or beer, nor
13 any jobber or agent of such person, shall directly or indi-
14 rectly supply, furnish, give, or pay for any furnishings,
15 fixtures, or equipment used in the storage, handling, serv-
16 ing, or dispensing of alcoholic beverages, wine, beer, or
17 food within the place of business of a licensee or permittee
18 authorized under the provisions of this chapter, to sell at
19 retail; nor shall he directly or indirectly extend any credit
20 for alcoholic beverages, wine or beer or pay for any such
21 license or permit, nor directly or indirectly be interested
22 in the ownership, conduct, or operation of the business of
23 another licensee or permittee authorized under the provisions
24 of this chapter to sell at retail. Any licensee or permittee
25 who shall permit or assent or be a party in any way to any
26 such violation or infringement of the provisions of this chap-
27 ter shall be deemed guilty of a violation of the provisions
28 of this chapter.

29 Sec. 28. Section one hundred twenty-three point forty-
30 six (123.46), Code 1973, is amended to read as follows:

31 123.46 CONSUMPTION IN PUBLIC PLACES--INTOXICATION. It
32 is unlawful for any person to use or consume alcoholic li-
33 quors, wine or beer upon the public streets or highways, or
34 alcoholic liquors in any public place, except premises cov-
35 ered by a liquor control license, or to possess or consume

1 alcoholic liquors, wine or beer on any public school prop-
2 erty or while attending any public or private school related
3 functions, and no person shall be intoxicated nor simulate
4 intoxication in a public place. As used in this section
5 "school" means a school or that portion thereof, which pro-
6 vides teaching for any grade from kindergarten through grade
7 twelve. Any person violating any provisions of this section
8 shall be fined not to exceed one hundred dollars or sentenced
9 not to exceed thirty days in the county jail.

10 Sec. 29. Section one hundred twenty-three point forty-
11 seven (123.47), Code 1973, is amended to read as follows:

12 123.47 PERSONS UNDER LEGAL AGE. No person shall sell,
13 give, or otherwise supply alcoholic liquor, wine or beer to
14 any person knowing or having reasonable cause to believe him
15 to be under legal age, and no person or persons under legal
16 age shall individually or jointly have alcoholic liquor, wine
17 or beer in his or their possession or control; except in the
18 case of liquor, wine or beer given or dispensed to a person
19 under legal age within a private home and with the knowledge
20 and consent of the parent or guardian for beverage or medi-
21 cinal purposes or as administered to him by either a physi-
22 cian or dentist for medicinal purposes and except to the ex-
23 tent that a person under legal age may handle alcoholic bev-
24 erages, wine and beer during the regular course of his or
25 her employment by a liquor control licensee, wine or beer
26 permittee under this chapter.

27 Sec. 30. Section one hundred twenty-three point forty-
28 nine (123.49), Code 1973, is amended to read as follows:

29 123.49 MISCELLANEOUS PROHIBITIONS.

30 1. No person shall sell, dispense, or give to any intoxi-
31 cated person, or one simulating intoxication, any alcoholic
32 liquor, wine or beer.

33 2. No person or club holding a liquor control license
34 or retail wine or beer permit under this chapter, nor his
35 agents or employees, shall do any of the following:

- 1 a. Knowingly permit any gaming, gambling, solicitation
2 for immoral purposes, or immoral or disorderly conduct on
3 the premises covered by the license or permit.
- 4 b. Sell or dispense any alcoholic beverage, wine or beer
5 on the premises covered by the license or permit, or permit
6 the consumption thereon between the hours of two a.m. and
7 six a.m. on any weekday, and between the hours of one a.m.
8 on Sunday and six a.m. on the following Monday.
- 9 c. Sell alcoholic beverages, wine or beer to any person
10 on credit, except with a bona fide credit card. This provi-
11 sion shall not apply to sales by a club to its members nor
12 to sales by a hotel or motel to bona fide registered guests.
- 13 d. Keep on any premises covered by a liquor control li-
14 cense any alcoholic liquor in any container except the orig-
15 inal package purchased from the department, except still wines
16 placed in dispensing or serving containers for temporary stor-
17 age, and except mixed drinks or cocktails mixed on the prem-
18 ises for immediate consumption. This prohibition shall not
19 apply to common carriers holding a class "D" liquor control
20 license.
- 21 e. Reuse for packaging alcoholic liquor any container
22 or receptacle used originally for packaging alcoholic liquor;
23 or adulterate, by the addition of any substance, the contents
24 or remaining contents of an original package of alcoholic
25 liquor; or knowingly possess any original package which has
26 been so reused or adulterated.
- 27 f. Any person under legal age shall not be employed in
28 the sale or serving of alcoholic liquor, wine or beer for
29 consumption on the premises where sold unless the person shall
30 be at least eighteen years old and the business of selling
31 food or other services constitutes more than fifty percent
32 of the gross business transacted therein and then only for
33 the purpose of serving or clearing alcoholic beverages, wine
34 or beer as an incident to a meal. This paragraph shall not
35 apply to class "C" beer or wine permit holders.

1 g. Allow any person other than the licensee, permittee,
2 or employees of such licensee or permittee, to use or keep
3 on the licensed premises any alcoholic liquor in any bottle
4 or other container which is designed for the transporting
5 of such beverages, except as permitted in section 123.95.
6 This paragraph shall not apply to the lodging quarters of
7 a class "B" liquor control licensee or wine or beer permittee,
8 or to common carriers holding a class "D" liquor control
9 license.

10 h. Sell, give, or otherwise supply any alcoholic beverage,
11 wine or beer to any person knowing or having reasonable cause
12 to believe him to be under legal age, or permit any person
13 knowing or having reasonable cause to believe him to be under
14 legal age, to consume any alcoholic beverage, wine or beer.

15 i. In the case of a retail beer or wine permittee, know-
16 ingly allow the mixing or adding of alcohol or any alcoholic
17 beverage to beer or wine or any other beverage in or about
18 his place of business.

19 3. No person under legal age shall misrepresent his or
20 her age for the purpose of purchasing or attempting to pur-
21 chase any alcoholic beverage, wine or beer from any licensee
22 or permittee. If any person under legal age shall misrepre-
23 sent his or her age, and the licensee or permittee establishes
24 that he made reasonable inquiry to determine whether such
25 prospective purchaser was over legal age, such licensee or
26 permittee shall not be guilty of selling alcoholic liquor,
27 wine or beer to minors.

28 Sec. 31. Section one hundred twenty-three point fifty
29 (123.50), subsections two (2) and three (3), Code 1973, are
30 amended to read as follows:

31 2. The conviction of any liquor control licensee, wine
32 or beer permittee for a violation of any of the provisions
33 of section 123.49 shall, subject to subsection 3 of this sec-
34 tion, be grounds for the suspension or revocation of the li-
35 cense or permit by the department or the local authority.

1 However, if any liquor control licensee is convicted of any
2 violation of subsection 2, paragraphs "a", "d" or "e", of
3 such section, or any wine or beer permittee is convicted of
4 a violation of paragraph "a", the liquor control license,
5 wine or beer permit shall be revoked and shall immediately
6 be surrendered by the holder, and the bond of the license
7 or permit holder shall be forfeited to the department.

8 3. If any licensee, wine or beer permittee, or employee
9 of such licensee or permittee shall be convicted of a viola-
10 tion of section 123.49, subsection 2, paragraph "h", or a
11 retail wine or beer permittee shall be convicted of a vio-
12 lation of paragraph "i" of such subsection, the director or
13 local authority shall, in addition to the other penalties
14 fixed for such violations by this section, assess a penalty
15 as follows:

16 a. Upon a first conviction, the violator's liquor con-
17 trol license, wine or beer permit shall be suspended for a
18 period of fourteen days.

19 b. Upon a second conviction within a period of two years,
20 the violator's liquor control license, wine or beer permit
21 shall be suspended for a period of thirty days.

22 c. Upon a third conviction within a period of five years,
23 the violator's liquor control license, wine or beer permit
24 shall be suspended for a period of sixty days.

25 d. Upon a fourth conviction within a period of five years,
26 the violator's liquor control license, wine or beer permit
27 shall be revoked.

28 Sec. 32. Section one hundred twenty-three point fifty-
29 six (123.56), Code 1973, is amended by striking the section
30 and inserting in lieu thereof the following:

31 123.56 NATIVE WINES. Subject to rules and regulations
32 of the department, manufacturers of native wines from grapes,
33 cherries, other fruit juices, or honey holding a class "A"
34 wine permit as required by this chapter may sell, keep, or
35 offer for sale and deliver the same. Such sales may be made

1 at retail for off-premises consumption when sold on the prem-
2 ises of the manufacturer.

3 A manufacturer of native wines shall not sell such wines
4 otherwise than as permitted in this chapter or allow any wine
5 so sold to be consumed upon the premises of such manufacturer.
6 However, native wines may be sampled when no charge is made
7 therefor on the premises where made prior to sale. Any per-
8 son may manufacture native wine for consumption on his own
9 premises when such wine or any part thereof is not manufac-
10 tured for sale.

11 For the purposes of this section "manufacturer" includes
12 only those persons who process the fruit or honey by fer-
13 mentation into wines in Iowa.

14 Sec. 33. Section one hundred twenty-three point fifty-
15 nine (123.59), Code 1973, is amended to read as follows:

16 123.59 BOOTLEGGING. Any person who, by himself, or through
17 another acting for him, shall keep or carry on his person,
18 or in a vehicle, or leave in a place for another to secure,
19 any alcoholic liquor, wine or beer with intent to sell or
20 dispense of such liquor, wine or beer by gift or otherwise
21 in violation of law, or who shall, within this state, in any
22 manner, directly or indirectly, solicit, take, or accept any
23 order for the purchase, sale, shipment, or delivery of such
24 alcoholic liquor, wine or beer in violation of law, or aid
25 in the delivery and distribution of any alcoholic liquor,
26 wine or beer so ordered or shipped, or who shall in any manner
27 procure for, sell, or give any alcoholic liquor, wine or beer
28 to any person under legal age, for any purpose except as
29 authorized and permitted in this chapter, shall be a bootlegger
30 and be subject to the general penalties provided by this
31 chapter.

32 Sec. 34. Section one hundred twenty-three point sixty
33 (123.60), Code 1973, is amended to read as follows:

34 123.60 NUISANCES. The premises where the unlawful manu-
35 facture or sale, or keeping with intent to sell, use or give

1 away, of alcoholic liquors, wine or beer is carried on, and
2 any vehicle or other means of conveyance used in transport-
3 ing such liquor, wine or beer in violation of law, and the
4 furniture, fixtures, vessels and contents, kept or used in
5 connection with such activities are nuisances and shall be
6 abated as provided in this chapter.

7 Sec. 35. Section one hundred twenty-three point seventy-
8 one (123.71), Code 1973, is amended to read as follows:

9 123.71 CONDITIONS. In no case shall a bootlegger injunc-
10 tion proceeding, as provided in this chapter, be maintained
11 unless it be shown to the court that efforts in good faith
12 have been made to discover the base of supplies or place where
13 the defendant charged as a bootlegger conducts his unlawful
14 business or receives or manufactures the alcoholic liquor,
15 wine or beer, of which he is charged with bootlegging.

16 Sec. 36. Section one hundred twenty-three point seventy-
17 two (123.72), Code 1973, is amended to read as follows:

18 123.72 ORDER OF ABATEMENT. If the existence of a nuisance
19 is established in a civil or criminal action, an order of
20 abatement shall be entered as a part of the judgment in the
21 case. Such order shall direct the confiscation of all alco-
22 holic liquor, wine or beer by the state; the removal from
23 the premises involved of all fixtures, furniture, vessels,
24 or movable property used in any way in conducting the unlaw-
25 ful business; the sale of all such removed property as well
26 as any vehicle or other means of conveyance which has been
27 abated, such sale to be conducted in the manner provided for
28 the sale of chattels under execution; and the effective clos-
29 ing of the premises against use for the purpose of manufac-
30 ture, sale, or consumption of alcoholic liquor, wine or beer
31 for a period of one year, unless sooner released by the court.

32 Sec. 37. Section one hundred twenty-three point eighty-
33 one (123.81), Code 1973, is amended to read as follows:

34 123.81 PORFEITURE OF BOND. If the owner of a property
35 who has filed an abatement bond as provided in this chapter

1 fails to abate the liquor, wine or beer nuisance on the prem-
2 ises covered by the bond, or fails to prevent the mainte-
3 nance of any liquor, wine or beer nuisance on said premises
4 at any time within a period of one year after entry of the
5 abatement order, the court shall, after a hearing in which
6 such fact is established, direct an entry of such violation
7 of the terms of the owner's bond, to be made on the record
8 and the undertaking of his bond thereupon forfeited.

9 Sec. 38. Section one hundred twenty-three point eighty-
10 four (123.84), Code 1973, is amended to read as follows:

11 123.84 JUDGMENT. If the court after hearing finds a li-
12 quor, wine or beer nuisance has been maintained on the prem-
13 ises covered by the abatement bond and that liquor, wine or
14 beer has been sold or kept for sale on the premises contrary
15 to law within one year from the date of the giving of such
16 bond, then the court shall order the forfeiture of the bond
17 and enter judgment for the full amount of such bond against
18 the principal and sureties thereof, and the lien on the real
19 estate created pursuant to section 123.79 shall be decreed
20 foreclosed and the court shall provide for a special and
21 general execution for the enforcement of such decree and
22 judgment.

23 Sec. 39. Section one hundred twenty-three point ninety-
24 two (123.92), Code 1973, is amended to read as follows:

25 123.92 CIVIL LIABILITY APPLICABLE TO SALE OR GIFT OF BEER,
26 WINE OR INTOXICANTS BY LICENSEES. Every husband, wife, child,
27 parent, guardian, employer or other person who shall be in-
28 jured in person or property or means of support by any in-
29 toxicated person or resulting from the intoxication of any
30 such person, shall have a right of action, severally or jointly
31 against any licensee or permittee who shall sell or give any
32 beer, wine or intoxicating liquor to any such person while
33 he is intoxicated, or serve any such person to a point where
34 such person is intoxicated for all damages actually sustained.

35 Every liquor control licensee and class "B" beer or wine

1 permittee shall furnish proof of financial responsibility
2 either by the existence of a liability insurance policy or
3 by posting bond in such amount as determined by the depart-
4 ment.

5 Sec. 40. Section one hundred twenty-three point ninety-
6 five (123.95), Code 1973, is amended to read as follows:

7 123.95 PREMISES MUST BE LICENSED--EXCEPTION AS TO CONVEN-
8 TIONS AND SOCIAL GATHERINGS. It is unlawful for any person
9 to allow the dispensing or consumption of intoxicating li-
10 quor, except ~~sacramental~~ wines and beer, in any establish-
11 ment unless such establishment is licensed under this chapter.

12 However, bona fide conventions or meetings may bring their
13 own legal liquor onto the licensed premises if the liquor
14 is served to delegates or guests without cost. All other
15 provisions of this chapter shall be applicable to such prem-
16 ises. The provisions of this section shall have no appli-
17 cation to private social gatherings of friends or relatives
18 in a private home or a private place which is not of a com-
19 mercial nature nor where goods or services may be purchased
20 or sold nor any charge or rent or other thing of value is
21 exchanged for the use of such premises for any purpose other
22 than for sleeping quarters.

23 Sec. 41. Section one hundred twenty-three point one hun-
24 dred twenty-one (123.121), Code 1973, is amended to read as
25 follows:

26 123.121 VENUE. In any prosecution under this chapter
27 for the unlawful sale of alcoholic liquor, wine or beer a
28 sale of alcoholic liquor, wine or beer which requires a
29 shipment or delivery of such liquor, wine or beer shall be
30 deemed to be made in the county in which such delivery is
31 made by the carrier to the consignee, his agent, or employee.

32 In any prosecution under this chapter for the unlawful
33 transportation of intoxicating liquor, the offense shall be
34 held to have been committed in any county in which such li-
35 quor is received for transportation, through which it is

1 transported, or in which it is delivered.

2 Sec. 42. Section one hundred twenty-three point one hun-
3 dred twenty-two (123.122), Code 1973, is amended to read as
4 follows:

5 123.122 PERMIT OR LICENSE REQUIRED. No person shall manu-
6 facture for sale or sell beer or wine at wholesale or retail
7 unless a permit is first obtained as provided in this divi-
8 sion or, a liquor control license authorizing the retail sale
9 of beer or wine or both is first obtained as provided in
10 division I of this chapter. No liquor control license holder
11 shall be required to hold a separate class "B" beer or wine
12 permit or to post a separate bond.

13 Sec. 43. Section one hundred twenty-three point one hun-
14 dred twenty-three (123.123), Code 1973, is amended to read
15 as follows:

16 123.123 EFFECT ON LIQUOR CONTROL LICENSEES. All appli-
17 cable provisions of this division relating to class "B" beer
18 or wine permits shall apply to liquor control licensees in
19 the purchasing, storage, handling, serving, and sale of beer
20 or wine.

21 Sec. 44. Section one hundred twenty-three point one hun-
22 dred twenty-four (123.124), Code 1973, is amended by adding
23 the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. Permits for the manufacture
25 and sale, or sale of wine shall also be divided into three
26 classes, and shall be known as either class "A", "B", or "C"
27 wine permits. Except as provided in section one hundred
28 twenty-three point fifty-six (123.56) of the Code, a class
29 "A" wine permit shall allow the holder to manufacture and
30 sell wine at wholesale. The holder of a class "A" wine permit
31 may manufacture wine of more than seventeen percent alcohol
32 by weight for shipment outside the state only or for sale
33 to the Iowa beer and liquor control department. A class "B"
34 wine permit shall allow the holder to sell wine at retail
35 for consumption on or off the premises. A class "C" wine

1 permit shall allow the holder to sell wine at retail for
2 consumption off the premises.

3 Sec. 45. Section one hundred twenty-three point one hun-
4 dred twenty-five (123.125), Code 1973, is amended to read
5 as follows:

6 123.125 ISSUANCE OF PERMITS. The director shall issue
7 class "A", "B", and "C" beer permits or wine permits and may
8 suspend or revoke such permits for cause as provided in this
9 chapter.

10 Sec. 46. Section one hundred twenty-three point one hun-
11 dred twenty-six (123.126), Code 1973, is amended to read as
12 follows:

13 123.126 PROHIBITED INTEREST. It shall be unlawful for
14 any person or persons to be either directly or indirectly
15 interested in more than one class of beer or one class of
16 wine permit.

17 Sec. 47. Section one hundred twenty-three point one hun-
18 dred twenty-nine (123.129), subsection five (5), Code 1973,
19 is amended to read as follows:

20 5. States the number of square feet of interior floor
21 space which comprises the retail sales area of the premises
22 for which the permit is sought except that this provision
23 shall not be necessary or applicable in obtaining a class
24 "C" wine permit.

25 Sec. 48. Section one hundred twenty-three point one hun-
26 dred thirty (123.130), Code 1973, is amended to read as fol-
27 lows:

28 123.130 AUTHORITY UNDER CLASS "A" PERMIT. Any person
29 holding a class "A" permit issued by the department shall
30 be authorized to manufacture and sell, or sell at wholesale,
31 beer or wine as the case may be for consumption off the prem-
32 ises, such sales within the state to be made only to per-
33 sons holding subsisting class "A", "B" or "C" permits, or
34 liquor control licenses issued in accordance with the provi-
35 sions of this chapter.

1 Sec. 49. Section one hundred twenty-three point one hun-
2 dred thirty-one (123.131), Code 1973, is amended to read as
3 follows:

4 123.131 AUTHORITY UNDER CLASS "B" PERMIT. Subject to
5 the provisions of this chapter, any person holding a class
6 "B" permit shall be authorized to sell beer or wine as the
7 case may be for consumption on or off the premises. However,
8 unless otherwise provided in this chapter, no sale of beer
9 or wine shall be made for consumption on the premises unless
10 the place where such service is made is equipped with tables
11 and seats sufficient to accommodate not less than twenty-five
12 persons at one time.

13 Sec. 50. Section one hundred twenty-three point one hun-
14 dred thirty-two (123.132), Code 1973, is amended to read as
15 follows:

16 123.132 AUTHORITY UNDER CLASS "C" PERMIT. Any person
17 holding a class "C" permit shall be allowed to sell beer or
18 wine as the case may be for consumption off the premises.
19 Such sales shall be in original containers only.

20 Sec. 51. Section one hundred twenty-three point one hun-
21 dred thirty-three (123.133), Code 1973, is amended to read
22 as follows:

23 123.133 SALE ON TRAINS--BOND. Subject to the provisions
24 of this chapter, any dining car company, sleeping car company,
25 railroad company, or railway company may make application
26 to the director for special class "B" permit, and the director
27 may issue a permit to any such company which shall authorize
28 the holder to keep for sale and sell beer or wine as the case
29 may be on any dining car, sleeping car, buffet car, or
30 observation car operated by such applicant in, through, or
31 across the state. The application for such permit shall be
32 in such form and contain such information as may be required
33 by the director. Each such permit shall be good throughout
34 the state as a state permit. Only one such permit shall be
35 required for all cars operated in this state by such applicant,

1 but a duplicate of such permit shall be posted in each car
2 in which such beverages are sold; and no further permit shall
3 be required or tax levied for the privilege of selling beer
4 and wine for consumption in such cars. As a condition
5 precedent to the issuing of any such permit, the applicant
6 shall give bond to the department, with good and sufficient
7 sureties thereon to be approved by the director, conditioned
8 upon faithful compliance with the provisions of this chapter
9 in the penal sum of one thousand dollars.

10 Sec. 52. Section one hundred twenty-three point one hun-
11 dred thirty-four (123.134), subsections two (2) and three
12 (3), Code 1973, are amended to read as follows:

13 2. The annual permit fee for a class "B" permit except
14 for a class "B" wine permit shall be graduated according
15 to population as follows:

16 a. For premises located within the corporate limits of
17 cities with a population of ten thousand and over, three hun-
18 dred dollars.

19 b. For premises located within the corporate limits of
20 cities or towns with a population of at least fifteen hun-
21 dred but less than ten thousand, two hundred dollars.

22 c. For premises located within the corporate limits of
23 towns with a population of under fifteen hundred, one hun-
24 dred dollars.

25 d. For premises located outside the corporate limits of
26 any city or town, a sum equal to that charged in the incor-
27 porated city or town located nearest the premises to be oper-
28 ated under the permit, and in case there is doubt as to which
29 of two or more differing corporate limits are the nearest,
30 the permit fee which is the largest shall prevail.

31 3. The annual permit fee for a class "C" permit except
32 for a class "C" wine permit shall be graduated on the basis
33 of the amount of interior floor space which comprises the
34 retail sales area of the premises covered by the permit, as
35 follows:

1 a. Up to one thousand five hundred square feet, the sum
2 of seventy-five dollars.

3 b. Over one thousand five hundred square feet and up to
4 two thousand square feet, the sum of one hundred dollars.

5 c. Over two thousand and up to five thousand square feet,
6 the sum of two hundred dollars.

7 d. Over five thousand square feet, the sum of three hun-
8 dred dollars.

9 Sec. 53. Section one hundred twenty-three point one hun-
10 dred thirty-four (123.134), Code 1973, is amended by adding
11 the following new subsections:

12 NEW SUBSECTION. The annual permit fee for a class "A"
13 wine permit shall be two hundred fifty dollars.

14 NEW SUBSECTION. The annual permit fee for a class "B"
15 wine permit shall be two hundred dollars.

16 NEW SUBSECTION. The annual permit fee for a class "C"
17 wine permit shall be three hundred dollars.

18 Sec. 54. Section one hundred twenty-three point one hun-
19 dred thirty-five (123.135), Code 1973, is amended by striking
20 the section and inserting in lieu thereof the following:

21 1. BREWER'S CERTIFICATE OF COMPLIANCE.

22 a. Any manufacturer, brewer, bottler, importer, or vendor
23 of beer or any agent thereof desiring to ship, sell, or have
24 beer brought into this state for resale by a class "A" per-
25 mittee shall first make application for and shall be issued
26 a brewer's certificate of compliance by the director for such
27 purpose. Such certificate of compliance shall expire at the
28 end of one year from the date of issuance and shall be re-
29 newed for a like period upon application to the director un-
30 less otherwise revoked for cause. Each application for a
31 certificate of compliance or renewal thereof shall be accom-
32 panied by a fee of one hundred dollars payable to the depart-
33 ment. Each holder of a certificate of compliance shall fur-
34 nish such information and in such form as the director may
35 require. Any brewer whose plant is located in Iowa and who

1 otherwise holds a class "A" beer permit to sell beer at whole-
2 sale shall be exempt from the fee, but not of the terms and
3 conditions, as herein provided.

4 b. At the time of applying for a certificate of compli-
5 ance, each applicant shall file with the department a list
6 of all class "A" permittees with whom it intends to do busi-
7 ness and shall designate the geographic area in which its
8 products are to be distributed by such permittee. The list-
9 ing of class "A" permittees and geographic area as filed with
10 the department may be amended from time to time by the holder
11 of a certificate of compliance.

12 c. All class "A" permit holders shall sell only those
13 brands of beer which are manufactured, brewed, bottled,
14 shipped, or imported by a person holding a current certificate
15 of compliance. Any employee or agent working for or repre-
16 senting the holder of a certificate of compliance within this
17 state shall register his name and address with the department,
18 which names and addresses shall be filed with the department's
19 copy of the certificate of compliance issued.

20 d. It shall be unlawful for any holder of a certificate
21 of compliance or his agent, or any class "A" permit holder
22 or his agent, to grant to any retail beer permit holder, di-
23 rectly or indirectly, any rebates, free goods, or quantity
24 discounts on beer which are not uniformly offered to all re-
25 tail permittees.

26 e. Notwithstanding any other penalties provided by this
27 chapter, any holder of a certificate of compliance or any
28 class "A" permit holder who shall violate any of the provi-
29 sions of this section shall be subject to a fine not to ex-
30 ceed one thousand dollars or suspension of his certificate
31 or permit for a period not to exceed one year or both such
32 fine and suspension.

33 2. VINTNER'S CERTIFICATE OF COMPLIANCE, OTHER PROHIBITED
34 ACTS.

35 a. Any manufacturer, vintner, bottler, importer, or ven-

1 dor of wine or any agent thereof desiring to ship, sell, or
2 have wine brought into this state for resale by a class "A"
3 permittee shall first make application for and shall be is-
4 sued a vintner's certificate of compliance by the director
5 for such purpose. Such certificate of compliance shall ex-
6 pire at the end of one year from the date of issuance and
7 shall be renewed for a like period upon application to the
8 director unless otherwise revoked for cause. Each applica-
9 tion for a certificate of compliance or renewal thereof shall
10 be accompanied by a fee of one hundred dollars payable to
11 the department. Each holder of a certificate of compliance
12 shall furnish such information and in such form as the di-
13 rector may require. Any vintner, or wine bottler whose plant
14 is located in Iowa and who otherwise holds a class "A" wine
15 permit to sell wine at wholesale shall be exempt from the
16 fee, but not of the terms and conditions, as in this section
17 provided.

18 b. At the time of applying for a certificate of compli-
19 ance, each applicant shall file with the department a list
20 of all class "A" wine permittees with whom it intends to do
21 business and shall designate the geographic area in which
22 its products are to be distributed by such permittee. The
23 listing of class "A" permittees and geographic area as filed
24 with the department may be amended from time to time by the
25 holder of a certificate of compliance.

26 c. All class "A" permit holders shall sell only those
27 brands of wine which are manufactured, bottled, fermented,
28 shipped, or imported by a person holding a current certifi-
29 cate of compliance. Any employee or agent working for or
30 representing the holder of a certificate of compliance within
31 this state shall register his name and address with the de-
32 partment, which names and addresses shall be filed with the
33 department's copy of the certificate of compliance issued
34 excepting that this provision shall not require the listing
35 of those persons who are employed on the premises of a bot-

1 tling plant, or winery where wine is manufactured, fermented
2 or bottled in Iowa or to the listing of those persons who
3 are thereafter engaged in the transporting of such wine.

4 d. It shall be unlawful for any holder of a certificate
5 of compliance or his agent, or any class "A" wine permit
6 holder or his agent, to grant to any retail wine permit holder,
7 or any retail liquor licensee, directly or indirectly, any
8 rebates, free goods, or discounts on wine.

9 e. It shall be unlawful for any holder of a certificate
10 of compliance or his agent who is engaged in the business
11 of selling wine to class "A" wine permittees to discriminate
12 in price, allowance, rebate, refund, commission, discount
13 or service between such class "A" wine permittees authorized
14 to sell wine at wholesale. The term "discriminate" shall
15 mean the granting of more favorable prices, allowances, re-
16 bates, refunds, commissions, discounts or services to one
17 class "A" wine permit holder than to another.

18 Notwithstanding the terms, provisions or conditions of
19 any agreement between the holder of a certificate of compli-
20 ance and a class "A" wine permit holder for the sale and dis-
21 tribution of wine, such agreement or contract shall be for
22 a period of no less than that period covered by the permit
23 of the designated class "A" wine permittee and such agree-
24 ment or contract shall not be amended or cancelled during
25 such period without the approval of the director upon good
26 cause shown. In the event that the certificate holder or
27 class "A" wine permittee determines not to renew the con-
28 tract at the expiration of its term, or that the certificate
29 holder wishes to diminish the geographic territory assigned
30 to a class "A" wine permit holder, ninety days written no-
31 tice of such determination shall be given to the other party
32 and a copy thereof remitted to the director. Failure to give
33 such notice shall effect an automatic renewal of the contract.

34 The following shall not constitute "good cause" as in this
35 section provided for the termination of a class "A" wine per-

1 mit holder or the diminution of his assigned territory by
2 the holder of a certificate of compliance:

3 (1) The sole fact that the certificate holder desires
4 further sales penetration of the market of its brand or brands.

5 (2) The fact that the class "A" wine permittee is selling
6 other products or other brands of wine.

7 (3) The change of executive management of the wine permit
8 holder unless the certificate holder, having the burden of
9 proof, proves that such change of executive management will
10 be substantially detrimental to the distribution of the
11 certificate holder's brand or brands in such class "A" wine
12 permittee's sales territory.

13 f. No signs or other matter advertising any brand of wine
14 shall be erected or placed upon the outside of any premises
15 which are occupied by a licensee or permittee authorized to
16 sell wine at retail.

17 g. Except as hereinafter provided, no retail permittee
18 authorized to sell wine shall sell such wine for off-premise
19 consumption for less than cost adjusted to the nearest cent.
20 Cost, for the purposes of this section, shall be determined
21 by the director with the approval of a majority of the mem-
22 bers of the Iowa beer and liquor control council and shall
23 be determined by establishing a minimum percentage markup
24 for sales of wine at retail whether in case lot or less.
25 To determine "cost", a minimum percentage markup shall be
26 applied to the wholesale price of wine sold by class "A" wine
27 permittees to permittees authorized to sell wine at retail.

28 With prior approval and as prescribed by the director,
29 and upon application to and on forms provided by the depart-
30 ment, the director may authorize retail wine permittees and
31 liquor control licensees to sell wine for off-premise con-
32 sumption below cost for the following reasons:

33 (1) Discontinuance of business.

34 (2) Discontinuance of a brand or package size of wine
35 that has been in inventory on the retail premises for a pe-

1 riod of at least nine months. Any brand or package size of
2 wine discontinued shall not be repurchased at wholesale by
3 the discontinuing retailer for a period of twelve months.

4 (3) For such other reason of hardship as might be spec-
5 ified by the applicant and as allowed and approved by the
6 director.

7 h. Notwithstanding any other penalties provided by this
8 chapter, any holder of a certificate of compliance relating
9 to wine, class "A", "B" or "C" wine permittee or retail liquor
10 licensee who shall violate any of the provisions of this sec-
11 tion shall be subject to a fine not to exceed one thousand
12 dollars or be subject to suspension of the certificate of
13 compliance, license or permit for a period not to exceed sixty
14 days or be subject to both such fine and suspension.

15 Sec. 55. Section one hundred twenty-three point one hun-
16 dred thirty-six (123.136), Code 1973, is amended by striking
17 the section and inserting in lieu thereof the following:

18 123.136 BARREL AND GALLONAGE TAX.

19 1. In addition to the annual permit fee to be paid by
20 all class "A" permittees under the provisions of this chap-
21 ter there shall be levied and collected from such permittees
22 on all beer manufactured for sale or sold in this state at
23 wholesale and on all beer imported into this state for sale
24 at wholesale and sold in this state at wholesale, a tax of
25 four and thirty-four hundredths dollars for every barrel con-
26 taining thirty-one gallons, and at a like rate for any other
27 quantity or for the fractional part of a barrel. However,
28 no tax shall be levied or collected on beer shipped outside
29 this state by a class "A" permittee or sold by one class "A"
30 permittee to another class "A" permittee.

31 All revenue derived from the barrel tax shall accrue to
32 the state general fund.

33 All of the provisions of this chapter relating to the ad-
34 ministration of the barrel tax on beer shall apply to this
35 section.

1 2. There shall be levied and collected from all class
2 "A" permittees selling wine on all wine manufactured for sale
3 or sold in this state at wholesale and on all wine imported
4 into this state for sale at wholesale and sold in this state
5 at wholesale, a tax of fifty cents for every wine gallon,
6 and at the like rate for any other quantity or for the frac-
7 tional parts of a wine gallon.

8 No tax shall be levied or collected on wine shipped out-
9 side this state by a class "A" permittee or sold by one class
10 "A" permittee to another class "A" permittee.

11 All revenue derived from the wine tax shall be deposited
12 in the beer and liquor control fund established by section
13 one hundred twenty-three point fifty-three (123.53) of this
14 chapter and shall be distributed as follows:

15 a. Two-thirds of the revenue derived from the wine tax
16 shall be distributed in accordance with subsections three
17 (3), four (4), five (5), and six (6) of section one hundred
18 twenty-three point fifty-three (123.53) of this chapter; pro-
19 vided, however, that the total amount so distributed shall
20 not exceed an amount equal to the funds distributed pursuant
21 to such subsections during the fiscal year ending June 30,
22 1972, as adjusted by the percent change in the gross sales
23 of the state liquor stores in each year thereafter.

24 b. One-third of the revenue derived from the wine tax
25 shall be distributed in accordance with subsection seven (7)
26 of section one hundred twenty-three point fifty-three (123.53)
27 of this chapter; provided, however, that the total amount
28 so distributed shall not exceed an amount equal to the funds
29 distributed pursuant to such subsection during the fiscal
30 year ending June 30, 1972, as adjusted by the percent change
31 in the gross sales of the state liquor stores in each year
32 thereafter.

33 c. The revenue derived from the wine tax remaining in
34 the beer and liquor control fund after the distributions pur-
35 suant to paragraphs a and b of this subsection shall be trans-

1 ferred by the state comptroller to the general fund of the
2 state.

3 3. All of the provisions of this chapter relating to the
4 administration of the wine tax shall apply to this section.

5 Sec. 56. Section one hundred twenty-three point one hun-
6 dred thirty-seven (123.137), Code 1973, is amended to read
7 as follows:

8 123.137 REPORT OF BARREL AND GALLONAGE SALES--PENALTY.

9 Every person holding a class "A" permit shall on or before
10 the tenth day of each calendar month commencing on the tenth
11 day of the calendar month following the month in which such
12 person is issued a permit, make a report under oath to the
13 department upon forms to be furnished by the department for
14 such purpose showing the exact number of barrels of beer,
15 gallons of wine or fractional parts thereof, sold by such
16 permit holder during the preceding calendar month. Such re-
17 port shall also state such information as the director may
18 require, and such permit holders shall at the time of filing
19 said report pay to the department the amount of tax due at
20 the rate fixed in section 123.136.

21 A penalty of ten percent of the amount of the tax shall
22 be added thereto if the report is not filed and the tax paid
23 within the time required by this section.

24 Sec. 57. Section one hundred twenty-three point one hun-
25 dred thirty-eight (123.138), Code 1973, is amended to read
26 as follows:

27 123.138 BOOKS OF ACCOUNT REQUIRED. Each class "A" per-
28 mittee shall keep proper books of account and records show-
29 ing the amount of beer and wine sold by him, which books of
30 account shall be at all times open to inspection by the di-
31 rector. Each class "B" and class "C" permittee and retail
32 liquor licensee shall keep proper books of account and records
33 showing each purchase of beer and wine made by him, and the
34 date and the amount of each purchase and the name of the per-
35 son from whom each purchase was made, which books of account

1 and records shall be open to inspection by the director and
2 agents of the division of beer and liquor law enforcement
3 of the department of public safety during normal business
4 hours of the permittee.

5 Sec. 58. Section one hundred twenty-three point one hun-
6 dred thirty-nine (123.139), Code 1973, is amended to read
7 as follows:

8 123.139 SEPARATE LOCATIONS--CLASS "A". Every class "A"
9 permittee having more than one place of business shall be
10 required to have a separate permit for each separate place
11 of business maintained by such permittee wherein such beer
12 or wine is stored, warehoused, or sold.

13 Sec. 59. Section one hundred twenty-three point one hun-
14 dred forty (123.140), Code 1973, is amended to read as fol-
15 lows:

16 123.140 SEPARATE LOCATIONS--CLASS "B" OR "C". Every per-
17 son holding a class "B" or class "C" permit having more than
18 one place of business where such beer or wine is sold shall
19 be required to have a separate license for each separate place
20 of business, except as otherwise provided by this chapter.

21 Sec. 60. Section one hundred twenty-three point one hun-
22 dred forty-one (123.141), Code 1973, is amended to read as
23 follows:

24 123.141 KEEPING LIQUOR WHERE BEER IS SOLD. No alcoholic
25 liquor for beverage purposes shall be used, or kept for any
26 purpose in the place of business of class "B" permittees,
27 or on the premises of such class "B" permittees, at any time.
28 A violation of any provision of this section shall be grounds
29 for suspension or revocation of the permit pursuant to sec-
30 tion 123.50, subsection 3. This section shall not apply in
31 any manner or in any way, to any railway car of any dining
32 car company, sleeping car company, railroad company or rail-
33 way company, having a special class "B" permit; to the prem-
34 ises of any hotel or motel for which a class "B" permit has
35 been issued, other than that part of such premises regularly

1 used by the hotel or motel for the principal purpose of sell-
2 ing beer, wine or food to the general public; or to drug
3 stores regularly and continuously employing a registered phar-
4 macist, from having alcohol in stock for medicinal and com-
5 pounding purposes.

6 Sec. 61. Section one hundred twenty-three point one hun-
7 dred forty-two (123.142), Code 1973, is amended to read as
8 follows:

9 123.142 PURCHASE FROM NONPERMIT HOLDER. It shall be un-
10 lawful for the holder of any class "B" or class "C" permit ..
11 issued under the provisions of this chapter to sell beer and
12 wine, except beer and wine purchased from a person holding
13 a subsisting class "A" permit issued in accordance with the
14 provisions of this chapter, and on which the tax provided
15 in section 123.136 has been paid. However, the provisions
16 of this section shall not apply to the holders of special
17 class "B" permits issued under section 123.133 for sales in
18 cars engaged in interstate commerce nor to class "D" liquor
19 control licensees as provided in this chapter.

20 It shall be unlawful for any person not holding a class
21 "A" permit to import beer or wine into this state for the
22 purpose of sale or resale.

23 Sec. 62. Section one hundred twenty-three point one hun-
24 dred forty-three (123.143), Code 1973, is amended to read
25 as follows:

26 123.143 DISTRIBUTION OF FUNDS. The revenues obtained
27 from permit fees, wine tax and the barrel tax collected un-
28 der the provisions of this chapter shall be distributed as
29 follows:

30 1. All retail beer permit fees collected by any local
31 authority at the time application for the permit is made,
32 and remitted with the permit application to the department,
33 shall be refunded by the department to the local authority
34 at the time the permit is issued.

35 2. All permit fees including all retail class "B" and

1 class "C" wine permit fees, and taxes collected by the depart-
2 ment under this division shall accrue to the state general
3 fund, except as otherwise provided.

4 Sec. 63. Section one hundred twenty-three point one hun-
5 dred forty-five (123.145), Code 1973, is amended to read as
6 follows:

7 123.145 LABELS ON BOTTLES, BARRELS, ETC.--CONCLUSIVE
8 EVIDENCE. The label on any bottle, keg, barrel, or other
9 container in which beer or wine is offered for sale in this
10 state, representing the alcoholic content of such beer as
11 being in excess of four per centum by weight or in the case
12 of wine as representing the alcoholic content of such wine
13 as being in excess of seventeen per centum by weight shall
14 be conclusive evidence as to the alcoholic content of the
15 beer or wine contained therein.

16 EXPLANATION

17 This bill would place wines containing not more than seven-
18 teen percent alcohol by weight under private distribution
19 and sale much the same as beer is handled presently.

20 Wine wholesalers and retailers would be required to ob-
21 tain a separate and distinct wine permit with the exception
22 of the retail liquor licensee who presently has the privilege
23 of selling wine for on-premise consumption.

24 The "mark-up" system for obtaining wine profits for the
25 state would be replaced with a wine excise tax, collected
26 by wholesalers remitting to the state on a monthly basis,
27 and permit fees.

28 Iowa is one of only six states which still maintain an
29 almost complete monopoly over wine sales. Several of these
30 remaining states are considering getting out of the business
31 because the state, in some instances, cannot properly stock,
32 care for nor meet public demand for wines due in part to the
33 natural characteristics of wine.

34
35

LSB 490
jd/jw/3

SENATE FILE 138
FISCAL NOTE

Date prepared March 16, 1973

Requested by Senator Kelly.

Prepared in regard to S.F. 138 - An Act relating to the private sale, control, distribution and taxation of wine containing not more than 17% alcohol by weight, etc. Following is the fiscal effect in dollars of the legislative proposal as required by Senate Rule 31.

	Actual 1972 Base Year	1973	Estimated 1974	1975
Wine sales in gallons (1)	<u>1,003,512</u>	<u>1,250,000</u>	<u>5,700,000</u>	<u>4,700,000</u>
Wine sales in dollars	\$6,825,432	8,500,000		
Cost of sales	3,834,770	4,760,000		
Gross profit	<u>2,990,662</u>	<u>3,740,000</u>		
Operating expenses	566,512	705,500		
Net profit	<u>\$2,424,150</u>	<u>3,034,500</u>		
Affect on Iowa Gen. Fund:				
Net profit (less distributions to local gov.)	\$1,400,335	1,759,500	-	-
Sales Tax:				
1. 90% of sales at retail x 3%	184,286	229,500	-	-
2. Average price of \$6.80 per gal less 1.5m gal inventory buildup	-	-	856,800	958,800
3. Licensee sales @ 100% markup x 3%	40,950	51,000	-	-
Licensee tax - 15%	102,381	127,500		
Annual permit fees	-	-	767,500	767,500
Gallage tax 50¢	-	-	2,850,000	2,350,000
Income tax (15% net profit on sales taxed at 7%)	14,333	17,850	299,880	335,580
	<u>\$1,742,285</u>	<u>2,185,350</u>	4,774,180	4,411,880
Less distributions:				
Cities & towns			803,353	859,588
Counties			401,677	429,794
			<u>3,569,150</u>	<u>3,122,498</u>
Affect on local governmental income: (2)				
Distribution to cities & towns	682,543	850,000	803,353	859,588
Distribution to counties	341,272	425,000	401,677	429,794
Personal property tax	-	-	275,400	275,400
	<u>\$1,023,815</u>	<u>1,275,000</u>	<u>1,480,430</u>	<u>1,564,782</u>

(1) Per capita consumption of wine is estimated to be .4 gallon in 1973. The projection for 1974 assumes the per capita consumption will increase to 1.4 gallons.

(2) Distributions to local governmental entities during 1974 and future years would be limited by the formulas in the bill.

Filed
March 19, 1973

GERRY D. RANKIN
Legislative Fiscal Director

S—271

1 Amend Senate File 138 as follows:

2 1. Page 33, by striking all of lines 18 through 35.

3 2. Page 34, by striking all of lines 1 through 12.

S—271 Filed
March 21, 1973

By GRIFFIN ROBINSON
SCHABEN KINLEY
PALMER BLOUIN
KENNEDY WILLITS
HEYING NOLIN
RABEDEAUX MURRAY
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