Ways and Means 3/25

Senate File 218
Ways and Means
Kinley, Chairman
Gluba
Burroughs

SENATE FILE 218

FILED FEB 24 1975

By KELLY, GRIFFIN, NORPEL, PRIEBE, MURRAY, NOLTING, RABEDEAUX, CARR, TIEDEN, COLEMAN, HANSEN, MILLER of Des Moines, GLUBA, GALLAGHER, ROBINSON, HEYING, CULVER and DODERER

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 and
2 taxation of wine containing not more than seventeen percent
3 alcohol by weight, declaring certain acts relating to wine
4 to be unlawful and prescribing penalties therefor.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6
7

S-3852

1 Amend Senate File 218, page 33, line 14, by
2 striking the word "forty" and inserting in lieu
3 thereof the word "seventy".

S-3852 FILED
MAY 20, 1975

BY E. KEVIN KELLY
JAMES W. GRIFFIN, SR.
WILLIAM E. GLUBA
RICHARD J. NORPEL, SR.

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S.F. 218 H.F. _____

Section 1. Section one hundred twenty-three point one (123.1), Code 1975, is amended to read as follows:

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

Sec. 2. Section one hundred twenty-three point two (123.2), Code 1975, is amended to read as follows:

123.2 GENERAL PROHIBITION. It shall be unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in this chapter.

Sec. 3. Section one hundred twenty-three point three (123.3), subsections four (4), seven (7), eight (8), and ten (10), Code 1975, are amended to read as follows:

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

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

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

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cating liquor" includes the ~~three~~ two varieties of liquor defined in subsections ~~5,-6,-and-7~~ five (5) and six (6), except beer as defined in subsection 9 but including all beverages made as described in such subsection which contain more than four percent of alcohol by weight, and every liquid or solid, patented or not, containing alcohol, spirits, or wine containing more than seventeen percent alcohol by weight, and susceptible of being consumed by a human being, for beverage purposes.

10. "Person" means any individual, association, partnership, corporation, club, hotel or motel, or municipal corporation owning or operating a bona fide airport, marina, park, coliseum, auditorium, or recreational facility in or at which the sale of alcoholic liquor, wine or beer is only an incidental part of such ownership or operation.

Sec. 4. Section one hundred twenty-three point three (123.3), subsection eleven (11), paragraph c, Code 1975, is amended to read as follows:

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

Sec. 5. Section one hundred twenty-three point three (123.3), subsections thirteen (13), seventeen (17), nineteen (19), twenty (20), twenty-five (25), twenty-six (26), twenty-seven (27), and thirty-one (31), Code 1975, are amended to read as follows:

13. "Permit" or "license" means an express written authorization issued by the department for the manufacture or sale, or both, of alcoholic liquor, wine or beer.

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

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liquor, wine or beer in any form.

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

20. "Import" means the transporting or ordering or arranging the transportation of alcoholic liquor, wine or beer into this state whether by a resident of this state or not.

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

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

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

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

Sec. 6. Section one hundred twenty-three point three (123.3), Code 1975, is amended by adding the following new subsection:

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

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1 Sec. 7. Section one hundred twenty-three point four
2 (123.4), Code 1975, 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 1975, 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 1975, 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

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

Sec. 10. Section one hundred twenty-three point sixteen (123.16), subsection two (2), paragraph b, Code 1975, is amended to read as follows:

b. The granting or refusing of liquor licenses and permits, wine and beer permits, and the suspension or revocation of such licenses and permits.

Sec. 11. Section one hundred twenty-three point eighteen (123.18), Code 1975, is amended to read as follows:

123.18 FAVORS FROM LICENSEE OR PERMITTEE. No person responsible for the administration or enforcement of this chapter shall accept or solicit donations, gratuities, political advertising, gifts, or other favors, directly or indirectly, from any liquor control licensee, wine or beer permittee. A violation of this section shall subject the violator to the general penalties provided by this chapter.

Sec. 12. Section one hundred twenty-three point nineteen (123.19), subsection one (1), Code 1975, is amended to read as follows:

1. Any manufacturer, distiller~~, vintner,~~ or importer of alcoholic beverages shipping, selling, or having alcoholic beverages brought into this state for resale by the state shall, as a condition precedent to the privilege of so trafficking in alcoholic liquors in this state, annually make application for and shall hold a distiller's certificate of compliance which shall be issued by the director for such purpose. No brand of alcoholic liquor shall be sold by the department in this state unless the manufacturer, distiller, ~~vintner,~~ importer, and all other persons participating in the distribution of such brand in this state have obtained such certificate. Such certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the

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

Sec. 13. Section one hundred twenty-three point twenty-one (123.21), subsections six (6) and ten (10), Code 1975, are amended to read as follows:

6. Providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each brand, class, or variety of liquor kept for sale under this chapter. Provide for the filing or posting of prices charged in sales between class "A" beer and wine permit holders and retailers as provided in this chapter, and establish or control such prices as may be based on minimum standards of fill, quantity, or alcoholic content for each individual sale of intoxicating liquor, wine or beer as deemed necessary for retail or consumer protection.

10. Prescribing the time, manner, means, and method by which distillers, ~~vintners,~~ vendors, or others authorized under this chapter may deliver or transport alcoholic liquors and prescribing the time, manner, means, and methods by which alcoholic liquor may be lawfully conveyed, carried, or transported.

Sec. 14. Section one hundred twenty-three point twenty-two (123.22), unnumbered paragraph one (1), Code 1975, is amended to read as follows:

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

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

Sec. 15. Section one hundred twenty-three point twenty-nine (123.29), subsection four (4), paragraph c, Code 1975, is amended to read as follows:

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

Sec. 16. Section one hundred twenty-three point thirty (123.30), subsection three (3), paragraphs a, b, c, and d, Code 1975, are amended to read as follows:

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

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

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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
13 by 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), and four (4),
29 Code 1975, 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 provided in this
34 chapter, accompanied by the required fee and bond, shall be
35 filed with the appropriate city council if the premises for

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which the license or permit is sought are located within the corporate limits of a city, or with the board of supervisors if the premises for which the license or permit is sought are located outside the corporate limits of a city. An application for a class "D" liquor control license and for a class "A" beer or wine permit, accompanied by the required fee and bond, shall be filed with the department, which shall proceed in the same manner as in the case of an application approved by local authorities.

2. ACTION BY LOCAL AUTHORITIES. The local authority shall either approve or disapprove the issuance of a liquor control license or retail wine or beer permit, and shall endorse such approval or disapproval on the application and forward same along with the required fee and bond to the department. Upon the initial issuance of a liquor control license or retail beer or wine permit, the fact that the local authority determines that no liquor control license or retail beer or wine permit shall be issued shall not be held to be arbitrary, capricious, or without reasonable cause. There shall be no limit upon the number of liquor control licenses or retail beer or wine permits which may be approved for issuance by local authorities.

4. APPEAL TO HEARING BOARD. Any applicant for a liquor control license, or a wine or beer permit may appeal to the department hearing board, established pursuant to section 123.15, from the director's disapproval of an application for a license or permit. If, upon such appeal the hearing board shall determine that the local authority acted arbitrarily, capriciously, or without reasonable cause in disapproving the application, or that, where the local authority approved the application, the director's own disapproval should be reversed, it shall order issuance of a license or permit. The same right of appeal to the hearing board shall be afforded a liquor control licensee, or a wine or beer permittee whose license or permit has been suspended

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or revoked under this chapter, and the hearing board shall reduce the period of suspension or order reinstatement of such license or permit for good cause shown.

Sec. 18. Section one hundred twenty-three point thirty-three (123.33), Code 1975, is amended to read as follows:

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

Sec. 19. Section one hundred twenty-three point thirty-four (123.34), Code 1975, is amended to read as follows:

123.34 EXPIRATION--SEASONAL LICENSE OR PERMIT. All liquor control licenses, wine and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance. The director shall cause sixty days' notice of such expiration to be given to each licensee or permittee in writing. However, the director may issue six-month or eight-month seasonal licenses or class "B" beer or wine permits for a proportionate part of the license or permit fee. No refund shall be made for seasonal licenses or permits. No seasonal license or permit shall be renewed except after a period of two months.

Sec. 20. Section one hundred twenty-three point thirty-five (123.35), Code 1975, is amended to read as follows:

123.35 SIMPLIFIED RENEWAL PROCEDURE. The director shall prescribe simplified application forms for the renewal of liquor control licenses, and wine and beer permits issued under the provisions of this chapter, which may be filed by licensees and permittees in lieu of a detailed renewal application form when qualifications and qualification

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information have not changed since the original issuance of the license or permit. Such simplified form shall require the licensee or permittee to verify under oath that the information contained in the original application remains current, and that no reason exists for the department's refusal to renew the license or permit as originally issued.

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

Sec. 21. Section one hundred twenty-three point thirty-six (123.36), subsection two (2), Code 1975, is amended to read as follows:

2. Class "A" liquor control licenses, the sum of six hundred dollars, except that for class "A" licenses in cities of less than two thousand population, and for clubs of less than two hundred fifty members, the license fee shall be four hundred dollars; however, the fee shall be two hundred dollars for any club which is a post, branch, or chapter of a veterans organization chartered by the Congress of the United States, if such club does not sell or permit the consumption of alcoholic beverages or beer <u>or wine</u> on the premises more than one day in any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages or beer <u>or wine</u> on the premises more than one day in any week.

Sec. 22. Section one hundred twenty-three point thirty-seven (123.37), Code 1975, is amended to read as follows:

123.37 POWER TO LICENSE AND LEVY TAXES. The power to establish licenses and permits and levy taxes as imposed in title VI of the Code is vested exclusively with the state. Unless specifically provided, no local authority shall levy a local tax on the sale of alcoholic beverages<u>, wine</u> or beer, require the obtaining of a special license or permit for such sale on any establishment, or require the obtaining of a license by any person as a condition precedent to his employ-

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ment in the sale, serving, or handling of alcoholic beverages, wine or beer within an establishment operating under a license or permit.

Sec. 23. Section one hundred twenty-three point thirty-eight (123.38), unnumbered paragraphs one (1) and two (2), Code 1975, are amended to read as follows:

A special liquor permit, liquor control license, wine or beer permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the director may in his discretion allow the executor or administrator of a permittee or licensee to operate the business of the decedent for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use same.

Any such licensee or permittee, or his executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his creditors, may voluntarily surrender such license or permit to the department and when so surrendered the department shall notify the local authority, and the department ~~and~~ or such local authority, ~~or the local authority by itself in the case of a retail beer permit~~ or both, shall refund to the person so surrendering the license or permit a proportionate amount of ~~the~~ any fee ~~paid~~ received by the department or that local authority for such license or permit as follows: If surrendered during the first three months of the period for which said license or permit was issued the refund shall be three-fourths of the amount of the fee; if surrendered more than three months but not more than six months after issuance the refund shall be one-half of the amount of the fee; if surrendered

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more than six months but not more than nine months after issuance the refund shall be one-fourth of the amount of the fee. No refund shall be made, however, for any special liquor permit, nor for a liquor control license, or wine or beer permit surrendered more than nine months after issuance. For purposes of this paragraph, any portion of license or permit fees deposited in the county mental health and institutions fund shall not be deemed received either by the department or by a local authority. No refund shall be made to any licensee or permittee, upon the surrender of his license or permit, if there is at the time of said surrender a complaint filed with the department or local authority, charging ~~him~~ the person with a violation of the provisions of this chapter. If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of ~~his~~ the license or permit, to receive a refund as herein provided~~.~~: But if ~~his~~ the license or permit is revoked or suspended upon such hearing ~~he~~ the licensee or permittee shall not be eligible for the refund of any portion of ~~his~~ the license or permit fee.

Sec. 24. Section one hundred twenty-three point thirty-nine (123.39), Code 1975, is amended to read as follows:

123.39 SUSPENSION OR REVOCATION OF LIQUOR LICENSE, WINE OR BEER PERMIT. Any liquor control license, wine or beer permit issued under this chapter may, after notice in writing to the license or permit holder and reasonable opportunity for hearing, and subject to section 123.50 where applicable, be suspended for a period not to exceed one year or revoked by the local authority or the director for any of the following causes:

1. Misrepresentation of any material fact in the application for such license or permit.

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

3. Any change in the ownership or interest in the busi-

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ness operated under a class "A", class "B", or class "C" liquor control license, or any wine or beer permit which change was not previously reported to and approved by the local authority and the department.

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

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

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

Local authorities shall have the power to suspend any retail wine or beer permit or liquor control license for a violation of any ordinance or regulation adopted by such local authority. Local authorities are empowered to adopt ordinances or regulations for the location of the premises of retail wine or beer and liquor control licensed establishments and are empowered to adopt ordinances, not in conflict with the provisions of this chapter and that do not diminish the hours during which beer, wine or alcoholic beverages may be sold or consumed at retail, governing any other activities or matters which may affect the retail sale and consumption of beer, wine and alcoholic liquor and the health, welfare and morals of the community involved.

Sec. 25. Section one hundred twenty-three point forty (123.40), Code 1975, is amended to read as follows:

123.40 EFFECT OF REVOCATION. Any liquor control licensee, wine or beer permittee whose license or permit is revoked under this chapter shall not thereafter be permitted to hold a liquor control license, wine or beer permit in the state of Iowa for a period of two years from the date of such revocation. The spouse and business associates holding ten percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license, wine

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or beer permit, and no liquor control license, wine or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two years from the date of such revocation. In the event a license or permit is revoked the premises which had been covered by such license or permit shall not be relicensed for one year.

Sec. 26. Section one hundred twenty-three point forty-four (123.44), Code 1975, is amended to read as follows:

123.44 GIFT OF LIQUORS PROHIBITED. No manufacturer or wholesaler shall give away any alcoholic liquor of any kind or description at any time in connection with his business except for testing or sampling purposes only. No manufacturer, vintner, wholesaler, or importer, organized as a corporation pursuant to the laws of this state or any other state, and who deals in alcoholic liquor, wine or beer subject to this chapter shall offer or give anything of value to any council member, official or employee of the department or directly or indirectly contribute in any manner any money or thing of value to any person seeking a public or appointive office or any recognized political party or a group of persons seeking to become a recognized political party.

Sec. 27. Section one hundred twenty-three point forty-five (123.45), Code 1975, is amended to read as follows:

123.45 INTEREST IN ~~LIQUOR~~ REGULATED BUSINESS. No council member or department employee shall, directly or indirectly, individually, or as a member of a partnership or shareholder in a corporation, have any interest in dealing in or in the manufacture of alcoholic liquor, wine or beer nor receive any kind of profit nor have any interest in the purchase or sale of alcoholic liquor, wine or beer by persons so authorized under this chapter except that this provision shall not prevent any such member or employee from lawfully purchasing and keeping alcoholic liquor, wine or beer in his possession for personal use.

No person engaged in the business of manufacturing,

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1 bottling, or wholesaling alcoholic beverages, wine or beer,
2 nor any jobber or agent of such person, shall directly or
3 indirectly supply, furnish, give, or pay for any furnishings,
4 fixtures, or equipment used in the storage, handling, serving,
5 or dispensing of alcoholic beverages, wine, beer, or food
6 within the place of business of a licensee or permittee
7 authorized under the provisions of this chapter, to sell at
8 retail; nor shall he directly or indirectly extend any credit
9 for alcoholic beverages, wine or beer or pay for any such
10 license or permit, nor directly or indirectly be interested
11 in the ownership, conduct, or operation of the business of
12 another licensee or permittee authorized under the provisions
13 of this chapter to sell at retail. Any licensee or permittee
14 who shall permit or assent or be a party in any way to any
15 such violation or infringement of the provisions of this
16 chapter shall be deemed guilty of a violation of the provisions
17 of this chapter.
18 Sec. 28. Section one hundred twenty-three point forty-
19 six (123.46), Code 1975, is amended to read as follows:
20 123.46 CONSUMPTION IN PUBLIC PLACES--INTOXICATION. It
21 is unlawful for any person to use or consume alcoholic li-
22 quors, wine or beer upon the public streets or highways, or
23 alcoholic liquors in any public place, except premises cov-
24 ered by a liquor control license, or to possess or consume
25 alcoholic liquors, wine or beer on any public school prop-
26 erty or while attending any public or private school related
27 functions, and no person shall be intoxicated nor simulate
28 intoxication in a public place. As used in this section
29 "school" means a school or that portion thereof, which pro-
30 vides teaching for any grade from kindergarten through grade
31 twelve. Any person violating any provisions of this section
32 shall be fined not to exceed one hundred dollars or sentenced
33 not to exceed thirty days in the county jail.
34 Sec. 29. Section one hundred twenty-three point forty-
35 seven (123.47), Code 1975, is amended to read as follows:

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1 123.47 PERSONS UNDER LEGAL AGE. No person shall sell,
2 give, or otherwise supply alcoholic liquor, wine or beer to
3 any person knowing or having reasonable cause to believe him
4 to be under legal age, and no person or persons under legal
5 age shall individually or jointly have alcoholic liquor, wine
6 or beer in his or their possession or control; except in the
7 case of liquor, wine or beer given or dispensed to a person
8 under legal age within a private home and with the knowledge
9 and consent of the parent or guardian for beverage or medi-
10 cinal purposes or as administered to him by either a physi-
11 cian or dentist for medicinal purposes and except to the ex-
12 tent that a person under legal age may handle alcoholic bev-
13 erages, wine and beer during the regular course of his or
14 her employment by a liquor control licensee, wine or beer
15 permittee under this chapter.
16 Sec. 30. Section one hundred twenty-three point forty-
17 nine (123.49), subsections one (1), two (2), and three (3),
18 Code 1975, are amended to read as follows:
19 1. No person shall sell, dispense, or give to any intoxi-
20 cated person, or one simulating intoxication, any alcoholic
21 liquor, wine or beer.
22 2. No person or club holding a liquor control license
23 or retail wine or beer permit under this chapter, nor his
24 agents or employees, shall do any of the following:
25 a. Knowingly permit any gaming, gambling, solicitation
26 for immoral purposes, or immoral or disorderly conduct on
27 the premises covered by the license or permit. This para-
28 graph shall not apply to games of skill, games of chance,
29 or raffle conducted pursuant to chapter 99B, or to devices
30 lawful under section 99B.10 or to games lawful under section
31 726.12.
32 b. Sell or dispense any alcoholic beverage, wine or beer
33 on the premises covered by the license or permit, or permit
34 the consumption thereon between the hours of two a.m. and
35 six a.m. on any weekday, and between the hours of two a.m.

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on Sunday and six a.m. on the following Monday, however, a holder of a liquor control license or class "B" beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense such liquor or beer between the hours of noon and ten p.m. on Sunday.

c. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision shall not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

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

e. Reuse for packaging alcoholic liquor any container or receptacle used originally for packaging alcoholic liquor; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of alcoholic liquor; or knowingly possess any original package which has been so reused or adulterated.

f. Any person under legal age shall not be employed in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold unless the person shall be at least eighteen years old and the business of selling food or other services constitutes more than fifty percent of the gross business transacted therein and then only for the purpose of serving or clearing alcoholic beverages, wine or beer as an incident to a meal. This paragraph shall not apply to class "C" beer or wine permit holders.

g. Allow any person other than the licensee, permittee, or employees of such licensee or permittee, to use or keep on the licensed premises any alcoholic liquor in any bottle

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1 or other container which is designed for the transporting
2 of such beverages, except as permitted in section 123.95.
3 This paragraph shall not apply to the lodging quarters of
4 a class "B" liquor control licensee or wine or beer permittee,
5 or to common carriers holding a class "D" liquor control
6 license.
7 h. Sell, give, or otherwise supply any alcoholic beverage,
8 wine or beer to any person knowing or having reasonable cause
9 to believe him to be under legal age, or permit any person
10 knowing or having reasonable cause to believe him to be under
11 legal age, to consume any alcoholic beverage, wine or beer.
12 i. In the case of a retail beer or wine permittee, know-
13 ingly allow the mixing or adding of alcohol or any alcoholic
14 beverage to beer or wine or any other beverage in or about
15 his place of business.
16 3. No person under legal age shall misrepresent his or
17 her age for the purpose of purchasing or attempting to pur-
18 chase any alcoholic beverage, wine or beer from any licensee
19 or permittee. If any person under legal age shall misrepre-
20 sent his or her age, and the licensee or permittee establishes
21 that he made reasonable inquiry to determine whether such
22 prospective purchaser was over legal age, such licensee or
23 permittee shall not be guilty of selling alcoholic liquor,
24 wine or beer to minors.
25 Sec. 31. Section one hundred twenty-three point fifty
26 (123.50), subsections two (2) and three (3), Code 1975, are
27 amended to read as follows:
28 2. The conviction of any liquor control licensee, or wine
29 or beer permittee for a violation of any of the provisions
30 of section 123.49 shall, subject to subsection 3 of this sec-
31 tion, be grounds for the suspension or revocation of the li-
32 cense or permit by the department or the local authority.
33 However, if any liquor control licensee is convicted of any
34 violation of subsection 2, paragraphs "a", "d" or "e", of
35 such section, or any wine or beer permittee is convicted of

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a violation of paragraph "a", the liquor control license, wine or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond of the license or permit holder shall be forfeited to the department.

3. If any licensee, wine or beer permittee, or employee of such licensee or permittee shall be convicted of a violation of section 123.49, subsection 2, paragraph "h", or a retail wine or beer permittee shall be convicted of a violation of paragraph "i" of such subsection, the director or local authority shall, in addition to the other penalties fixed for such violations by this section, assess a penalty as follows:

a. Upon a first conviction, the violator's liquor control license, or wine or beer permit shall be suspended for a period of fourteen days.

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

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

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

Sec. 32. Section one hundred twenty-three point fifty-six (123.56), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

123.56 NATIVE WINES. Subject to rules and regulations of the department, manufacturers of native wines from grapes, cherries, other fruit juices, or honey holding a class "A" wine permit as required by this chapter may sell, keep, or offer for sale and deliver the same. Such sales may be made at retail for off-premises consumption when sold on the premises of the manufacturer.

A manufacturer of native wines shall not sell such wines

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otherwise than as permitted in this chapter or allow any wine so sold to be consumed upon the premises of such manufacturer. However, native wines may be sampled when no charge is made therefor on the premises where made prior to sale. Any person may manufacture native wine for consumption on his own premises when such wine or any part thereof is not manufactured for sale.

For the purposes of this section "manufacturer" includes only those persons who process the fruit or honey by fermentation into wines in Iowa.

Sec. 33. Section one hundred twenty-three point fifty-nine (123.59), Code 1975, is amended to read as follows:

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

Sec. 34. Section one hundred twenty-three point sixty (123.60), Code 1975, is amended to read as follows:

123.60 NUISANCES. The premises where the unlawful manufacture or sale, or keeping with intent to sell, use or give away, of alcoholic liquors, wine or beer is carried on, and any vehicle or other means of conveyance used in transporting such liquor, wine or beer in violation of law, and the

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1 furniture, fixtures, vessels and contents, kept or used in
2 connection with such activities are nuisances and shall be
3 abated as provided in this chapter.
4 Sec. 35. Section one hundred twenty-three point seventy-
5 one (123.71), Code 1975, is amended to read as follows:
6 123.71 CONDITIONS. In no case shall a bootlegger injunc-
7 tion proceeding, as provided in this chapter, be maintained
8 unless it be shown to the court that efforts in good faith
9 have been made to discover the base of supplies or place where
10 the defendant charged as a bootlegger conducts his unlawful
11 business or receives or manufactures the alcoholic liquor,
12 wine or beer, of which he is charged with bootlegging.
13 Sec. 36. Section one hundred twenty-three point seventy-
14 two (123.72), Code 1975, is amended to read as follows:
15 123.72 ORDER OF ABATEMENT. If the existence of a nuisance
16 is established in a civil or criminal action, an order of
17 abatement shall be entered as a part of the judgment in the
18 case. Such order shall direct the confiscation of all alco-
19 holic liquor, wine or beer by the state; the removal from
20 the premises involved of all fixtures, furniture, vessels,
21 or movable property used in any way in conducting the unlaw-
22 ful business; the sale of all such removed property as well
23 as any vehicle or other means of conveyance which has been
24 abated, such sale to be conducted in the manner provided for
25 the sale of chattels under execution; and the effective clos-
26 ing of the premises against use for the purpose of manufac-
27 ture, sale, or consumption of alcoholic liquor, wine or beer
28 for a period of one year, unless sooner released by the court.
29 Sec. 37. Section one hundred twenty-three point eighty-
30 one (123.81), Code 1975, is amended to read as follows:
31 123.81 FORFEITURE OF BOND. If the owner of a property
32 who has filed an abatement bond as provided in this chapter
33 fails to abate the liquor, wine or beer nuisance on the prem-
34 ises covered by the bond, or fails to prevent the mainte-
35 nance of any liquor, wine or beer nuisance on said premises

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at any time within a period of one year after entry of the abatement order, the court shall, after a hearing in which such fact is established, direct an entry of such violation of the terms of the owner's bond, to be made on the record and the undertaking of his bond thereupon forfeited.

Sec. 38. Section one hundred twenty-three point eighty-four (123.84), Code 1975, is amended to read as follows:

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

Sec. 39. Section one hundred twenty-three point ninety-two (123.92), Code 1975, is amended to read as follows:

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

Every liquor control licensee and class "B" beer or wine permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the depart-

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ment.

Sec. 40. Section one hundred twenty-three point ninety-five (123.95), Code 1975, is amended to read as follows:

123.95 PREMISES MUST BE LICENSED--EXCEPTION AS TO CONVENTIONS AND SOCIAL GATHERINGS. It is unlawful for any person to allow the dispensing or consumption of intoxicating liquor, except sacramental wines and wine and beer, in any establishment unless such establishment is licensed under this chapter.

However, bona fide conventions or meetings may bring their own legal liquor onto the licensed premises if the liquor is served to delegates or guests without cost. All other provisions of this chapter shall be applicable to such premises. The provisions of this section shall have no application to private social gatherings of friends or relatives in a private home or a private place which is not of a commercial nature nor where goods or services may be purchased or sold nor any charge or rent or other thing of value is exchanged for the use of such premises for any purpose other than for sleeping quarters.

Sec. 41. Section one hundred twenty-three point one hundred twenty-one (123.121), Code 1975, is amended to read as follows:

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

In any prosecution under this chapter for the unlawful transportation of intoxicating liquor, the offense shall be held to have been committed in any county in which such liquor is received for transportation, through which it is transported, or in which it is delivered.

Sec. 42. Section one hundred twenty-three point one hun-

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1 dred twenty-two (123.122), Code 1975, is amended to read as
2 follows:
3 123.122 PERMIT OR LICENSE REQUIRED. No person shall manu-
4 facture for sale or sell beer or wine at wholesale or retail
5 unless a permit is first obtained as provided in this divi-
6 sion or, a liquor control license authorizing the retail sale
7 of beer or wine or both is first obtained as provided in
8 division I of this chapter. No liquor control license holder
9 shall be required to hold a separate class "B" beer or wine
10 permit or to post a separate bond.
11 Sec. 43. Section one hundred twenty-three point one hun-
12 dred twenty-three (123.123), Code 1975, is amended to read
13 as follows:
14 123.123 EFFECT ON LIQUOR CONTROL LICENSEES. All appli-
15 cable provisions of this division relating to class "B" beer
16 or wine permits shall apply to liquor control licensees in
17 the purchasing, storage, handling, serving, and sale of beer
18 or wine.
19 Sec. 44. Section one hundred twenty-three point one hun-
20 dred twenty-four (123.124), Code 1975, is amended by adding
21 the following new unnumbered paragraph:
22 NEW UNNUMBERED PARAGRAPH. Permits for the manufacture
23 and sale, or sale of wine shall also be divided into three
24 classes, and shall be known as either class "A", "B", or "C"
25 wine permits. Except as provided in section one hundred
26 twenty-three point fifty-six (123.56) of the Code, a class
27 "A" wine permit shall allow the holder to manufacture and
28 sell wine at wholesale. All applicants for a class "A" wine
29 permit shall be residents of the state of Iowa for a period
30 of at least two consecutive years immediately prior to making
31 application therefor. If such applicant is a corporation
32 or partnership, the two-year residency requirement shall apply
33 to each of the officers, directors, and partners of such
34 applicant. The holder of a class "A" wine permit may
35 manufacture wine of more than seventeen percent alcohol by

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1 weight for shipment outside the state only or for sale to
2 the Iowa beer and liquor control department. A class "B"
3 wine permit shall allow the holder to sell wine at retail
4 for consumption on or off the premises. A class "C" wine
5 permit shall allow the holder to sell wine at retail for
6 consumption off the premises.
7 Sec. 45. Section one hundred twenty-three point one hun-
8 dred twenty-five (123.125), Code 1975, is amended to read
9 as follows:
10 123.125 ISSUANCE OF PERMITS. The director shall issue
11 class "A", "B", and "C" beer permits or wine permits and may
12 suspend or revoke such permits for cause as provided in this
13 chapter.
14 Sec. 46. Section one hundred twenty-three point one hun-
15 dred twenty-six (123.126), Code 1975, is amended to read as
16 follows:
17 123.126 PROHIBITED INTEREST. It shall be unlawful for
18 any person or persons to be either directly or indirectly
19 interested in more than one class of beer or one class of
20 wine permit.
21 Sec. 47. Section one hundred twenty-three point one hun-
22 dred twenty-nine (123.129), subsection five (5), Code 1975,
23 is amended to read as follows:
24 5. States the number of square feet of interior floor
25 space which comprises the retail sales area of the premises
26 for which the permit is sought except that this provision
27 shall not be necessary or applicable in obtaining a class
28 "C" wine permit.
29 Sec. 48. Section one hundred twenty-three point one hun-
30 dred thirty (123.130), Code 1975, is amended to read as fol-
31 lows:
32 123.130 AUTHORITY UNDER CLASS "A" PERMIT. Any person
33 holding a class "A" permit issued by the department shall
34 be authorized to manufacture and sell, or sell at wholesale,
35 beer or wine as the case may be for consumption off the prem-

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1 ises, such sales within the state to be made only to per-
2 sons holding subsisting class "A", "B" or "C" permits, or
3 liquor control licenses issued in accordance with the provi-
4 sions of this chapter.
5 Sec. 49. Section one hundred twenty-three point one hun-
6 dred thirty-one (123.131), Code 1975, is amended to read as
7 follows:
8 123.131 AUTHORITY UNDER CLASS "B" PERMIT. Subject to
9 the provisions of this chapter, any person holding a class
10 "B" permit shall be authorized to sell beer or wine as the
11 case may be for consumption on or off the premises. However,
12 unless otherwise provided in this chapter, no sale of beer
13 or wine shall be made for consumption on the premises unless
14 the place where such service is made is equipped with tables
15 and seats sufficient to accommodate not less than twenty-five
16 persons at one time.
17 Sec. 50. Section one hundred twenty-three point one hun-
18 dred thirty-two (123.132), Code 1975, is amended to read as
19 follows:
20 123.132 AUTHORITY UNDER CLASS "C" PERMIT. Any person
21 holding a class "C" permit shall be allowed to sell beer or
22 wine as the case may be for consumption off the premises.
23 Such sales shall be in original containers only.
24 Sec. 51. Section one hundred twenty-three point one hun-
25 dred thirty-three (123.133), Code 1975, is amended to read
26 as follows:
27 123.133 SALE ON TRAINS--BOND. Subject to the provisions
28 of this chapter, any dining car company, sleeping car company,
29 railroad company, or railway company may make application
30 to the director for special class "B" permit, and the director
31 may issue a permit to any such company which shall authorize
32 the holder to keep for sale and sell beer or wine as the case
33 may be on any dining car, sleeping car, buffet car, or
34 observation car operated by such applicant in, through, or
35 across the state. The application for such permit shall be

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in such form and contain such information as may be required by the director. Each such permit shall be good throughout the state as a state permit. Only one such permit shall be required for all cars operated in this state by such applicant, but a duplicate of such permit shall be posted in each car in which such beverages are sold; and no further permit shall be required or tax levied for the privilege of selling beer and wine for consumption in such cars. As a condition precedent to the issuing of any such permit, the applicant shall give bond to the department, with good and sufficient sureties thereon to be approved by the director, conditioned upon faithful compliance with the provisions of this chapter in the penal sum of one thousand dollars.

Sec. 52. Section one hundred twenty-three point one hundred thirty-four (123.134), subsections two (2) and three (3), Code 1975, are amended to read as follows:

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

a. For premises located within the corporate limits of cities with a population of ten thousand and over, three hundred dollars.

b. For premises located within the corporate limits of cities with a population of at least fifteen hundred but less than ten thousand, two hundred dollars.

c. For premises located within the corporate limits of cities with a population of under fifteen hundred, one hundred dollars.

d. For premises located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be operated under the permit, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the permit fee which is the largest shall prevail.

3. The annual permit fee for a class "C" permit except

1 for a class "C" wine permit shall be graduated on the basis
2 of the amount of interior floor space which comprises the
3 retail sales area of the premises covered by the permit, as
4 follows:
5 a. Up to one thousand five hundred square feet, the sum
6 of seventy-five dollars.
7 b. Over one thousand five hundred square feet and up to
8 two thousand square feet, the sum of one hundred dollars.
9 c. Over two thousand and up to five thousand square feet,
10 the sum of two hundred dollars.
11 d. Over five thousand square feet, the sum of three hun-
12 dred dollars.
13 Sec. 53. Section one hundred twenty-three point one hun-
14 dred thirty-four (123.134), Code 1975, is amended by adding
15 the following new subsections:
16 NEW SUBSECTION. The annual permit fee for a class "A"
17 wine permit shall be two hundred fifty dollars.
18 NEW SUBSECTION. The annual permit fee for a class "B"
19 wine permit shall be two hundred dollars.
20 NEW SUBSECTION. The annual permit fee for a class "C"
21 wine permit holder whose food sales represent at least seventy-
22 five percent of his total dollar volume shall be graduated
23 on a basis of the amount of interior floor space which com-
24 prises the retail sales area of the premises covered by the
25 permit as follows:
26 a. Up to two thousand five hundred square feet, the sum
27 of seventy-five dollars.
28 b. Over two thousand five hundred square feet and up to
29 five thousand square feet, the sum of one hundred dollars.
30 c. Over five thousand square feet and up to ten thou-
31 sand square feet, the sum of one hundred fifty dollars.
32 d. Over ten thousand square feet and up to twenty thou-
33 sand square feet, the sum of two hundred dollars.
34 e. Over twenty thousand square feet, the sum of three
35 hundred dollars.

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1 The annual permit fee for a class "C" wine permit holder
2 whose total food sales represent less than seventy-five per-
3 cent of his total dollar volume shall be three hundred dol-
4 lars.
5 Sec. 54. Section one hundred twenty-three point one hun-
6 dred thirty-five (123.135), Code 1975, is amended by adding
7 the following new subsection:
8 NEW SUBSECTION.
9 a. Any manufacturer, vintner, bottler, importer, or ven-
10 dor of wine or any agent thereof desiring to ship, sell, or
11 have wine brought into this state for sale at wholesale by
12 a class "A" permittee shall first make application for and
13 shall be issued a vintner's certificate of compliance by the
14 director for such purpose. Such certificate of compliance
15 shall expire at the end of one year from the date of issuance
16 and shall be renewed for a like period upon application to
17 the director unless otherwise revoked for cause. Each applica-
18 tion for a certificate of compliance or renewal thereof shall
19 be accompanied by a fee of one hundred dollars payable to
20 the department. Each holder of a certificate of compliance
21 shall furnish such information and in such form as the di-
22 rector may require. Any vintner, or wine bottler whose plant
23 is located in Iowa and who otherwise holds a class "A" wine
24 permit to sell wine at wholesale shall be exempt from the
25 fee, but not of the terms and conditions, as in this section
26 provided.
27 b. At the time of applying for a certificate of compli-
28 ance, each applicant shall file with the department a list
29 of all class "A" wine permittees with whom it intends to do
30 business and shall designate the geographic area in which
31 its products are to be distributed by such permittees. Cer-
32 tificate holders shall have the authority to appoint more
33 than one class "A" wine permittee to service the same geo-
34 graphic territory. The listing of class "A" permittees and
35 geographic area as filed with the department may be amended

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1 from time to time by the holder of a certificate of compliance.
2 c. All class "A" permit holders shall sell only those
3 brands of wine which are manufactured, bottled, fermented,
4 shipped, or imported by a person holding a current certifi-
5 cate of compliance. Any employee or agent working for or
6 representing the holder of a certificate of compliance within
7 this state shall register his name and address with the de-
8 partment, which names and addresses shall be filed with the
9 department's copy of the certificate of compliance issued
10 excepting that this provision shall not require the listing
11 of those persons who are employed on the premises of a bot-
12 tling plant, or winery where wine is manufactured, fermented
13 or bottled in Iowa or to the listing of those persons who
14 are thereafter engaged in the transporting of such wine.
15 d. It shall be unlawful for any holder of a certificate
16 of compliance or his agent, or any class "A" wine permit
17 holder or his agent, to grant to any retail wine permit holder,
18 or any retail liquor licensee, directly or indirectly, any
19 rebates, free goods, or discounts on wine.
20 e. It shall be unlawful for any holder of a certificate
21 of compliance or his agent who is engaged in the business
22 of selling wine to class "A" wine permittees to discriminate
23 in price, allowance, rebate, refund, commission, discount
24 or service between such class "A" wine permittees authorized
25 to sell wine at wholesale. The term "discriminate" shall
26 mean the granting of more favorable prices, allowances, re-
27 bates, refunds, commissions, discounts or services to one
28 class "A" wine permit holder than to another.
29 Notwithstanding the terms, provisions or conditions of
30 any agreement between the holder of a certificate of compli-
31 ance and a class "A" wine permit holder for the sale and dis-
32 tribution of wine, such agreement or contract shall be for
33 a period of no less than that period covered by the permit
34 of the designated class "A" wine permittee and such agree-
35 ment or contract shall not be amended or cancelled during

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1 such period unless notification is given in writing by such
2 certificate holder to an affected class "A" wine permit holder
3 ninety days prior to such contemplated change in contract
4 or an amendment of assigned geographic territory.
5 f. No signs or other matter advertising any brand of wine
6 shall be erected or placed upon the outside of any premises
7 which are occupied by a licensee or permittee authorized to
8 sell wine at retail.
9 g. Except as hereinafter provided, no retail permittee
10 authorized to sell wine shall sell such wine for off-premise
11 consumption for less than cost adjusted to the nearest cent.
12 Cost, for the purposes of this section, shall be determined
13 by the director with the approval of a majority of the mem-
14 bers of the Iowa beer and liquor control council and shall
15 be determined by establishing a minimum percentage markup
16 for sales of wine at retail whether in case lot or less.
17 To determine "cost", a minimum percentage markup shall be
18 applied to the wholesale price of wine sold by class "A" wine
19 permittees to permittees authorized to sell wine at retail.
20 With prior approval and as prescribed by the director,
21 and upon application to and on forms provided by the depart-
22 ment, the director may authorize retail wine permittees and
23 liquor control licensees to sell wine for off-premise con-
24 sumption below cost for the following reasons:
25 (1) Discontinuance of business.
26 (2) Discontinuance of a brand or package size of wine
27 that has been in inventory on the retail premises for a pe-
28 riod of at least nine months. Any brand or package size of
29 wine discontinued shall not be repurchased at wholesale by
30 the discontinuing retailer for a period of twelve months.
31 (3) For such other reason of hardship as might be spec-
32 ified by the applicant and as allowed and approved by the
33 director.
34 h. Notwithstanding any other penalties provided by this
35 chapter, any holder of a certificate of compliance relating

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1 to wine, class "A", "B" or "C" wine permittee or retail liquor
2 licensee who shall violate any of the provisions of this sec-
3 tion shall be subject to a fine not to exceed one thousand
4 dollars or be subject to suspension of the certificate of
5 compliance, license or permit for a period not to exceed one
6 year or be subject to both such fine and suspension.
7 Sec. 55. Chapter one hundred twenty-three (123), Code
8 1975, is amended by adding the following new section:
9 NEW SECTION. WINE GALLONAGE TAX. There shall be levied
10 and collected from all class "A" permittees selling wine on
11 all wine manufactured for sale or sold in this state at
12 wholesale and on all wine imported into this state for sale
13 at wholesale and sold in this state at wholesale, a tax of
14 forty cents for every wine gallon, and at the like rate for
15 any other quantity or for the fractional parts of a wine
16 gallon.
17 No tax shall be levied or collected on wine shipped out-
18 side this state by a class "A" permittee or sold by one class
19 "A" permittee to another class "A" permittee.
20 All revenue derived from the wine tax shall be deposited
21 in the beer and liquor control fund established by section
22 one hundred twenty-three point fifty-three (123.53) of this
23 chapter and shall be distributed as follows:
24 1. Two-thirds of the revenue derived from the wine tax
25 shall be distributed in accordance with subsections three
26 (3), four (4), five (5), and six (6) of section one hundred
27 twenty-three point fifty-three (123.53) of this chapter; pro-
28 vided, however, that the total amount so distributed shall
29 not exceed an amount equal to the funds distributed pursuant
30 to such subsections during the fiscal year ending June 30,
31 1972, as adjusted by the percent change in the gross sales
32 of the state liquor stores in each year thereafter.
33 2. One-third of the revenue derived from the wine tax
34 shall be distributed in accordance with subsection seven (7)
35 of section one hundred twenty-three point fifty-three (123.53)

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of this chapter; provided, however, that the total amount so distributed shall not exceed an amount equal to the funds distributed pursuant to such subsection during the fiscal year ending June 30, 1972, as adjusted by the percent change in the gross sales of the state liquor stores in each year thereafter.

3. The revenue derived from the wine tax remaining in the beer and liquor control fund after the distributions pursuant to subsections one (1) and two (2) of this section shall be transferred by the state comptroller to the general fund of the state.

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

Sec. 56. Section one hundred twenty-three point one hundred thirty-seven (123.137), Code 1975, is amended to read as follows:

123.137 REPORT OF BARREL <u>AND GALLONAGE</u> SALES--PENALTY. Every person holding a class "A" permit shall on or before the tenth day of each calendar month commencing on the tenth day of the calendar month following the month in which such person is issued a permit, make a report under oath to the department upon forms to be furnished by the department for such purpose showing the exact number of barrels of beer, <u>gallons of wine</u> or fractional parts thereof, sold by such permit holder during the preceding calendar month. Such report shall also state such information as the director may require, and such permit holders shall at the time of filing said report pay to the department the amount of tax due at the rate fixed in section 123.136.

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

Sec. 57. Section one hundred twenty-three point one hundred thirty-eight (123.138), Code 1975, is amended to read as follows:

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123.138 BOOKS OF ACCOUNT REQUIRED. Each class "A" permittee shall keep proper books of account and records showing the amount of beer and wine sold by him, which books of account shall be at all times open to inspection by the director. Each class "B" and class "C" permittee and retail liquor licensee shall keep proper books of account and records showing each purchase of beer and wine made by him, and the date and the amount of each purchase and the name of the person from whom each purchase was made, which books of account and records shall be open to inspection by the director and agents of the division of beer and liquor law enforcement of the department of public safety during normal business hours of the permittee.

Sec. 58. Section one hundred twenty-three point one hundred thirty-nine (123.139), Code 1975, is amended to read as follows:

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

Sec. 59. Section one hundred twenty-three point one hundred forty (123.140), Code 1975, is amended to read as follows:

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

Sec. 60. Section one hundred twenty-three point one hundred forty-one (123.141), Code 1975, is amended to read as follows:

123.141 KEEPING LIQUOR WHERE BEER IS SOLD. No alcoholic liquor for beverage purposes shall be used, or kept for any purpose in the place of business of class "B" permittees,

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or on the premises of such class "B" permittees, at any time. A violation of any provision of this section shall be grounds for suspension or revocation of the permit pursuant to section 123.50, subsection 3. This section shall not apply in any manner or in any way, to any railway car of any dining car company, sleeping car company, railroad company or railway company, having a special class "B" permit; to the premises of any hotel or motel for which a class "B" permit has been issued, other than that part of such premises regularly used by the hotel or motel for the principal purpose of selling beer, wine or food to the general public; or to drug stores regularly and continuously employing a registered pharmacist, from having alcohol in stock for medicinal and compounding purposes.

Sec. 61. Section one hundred twenty-three point one hundred forty-two (123.142), Code 1975, is amended to read as follows:

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

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

Sec. 62. Section one hundred twenty-three point one hundred forty-three (123.143), subsection two (2), Code 1975, is amended to read as follows:

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

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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 1975, 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 somewhat the same as beer is handled presently.
20 Wholesalers, and retailers deaing exclusively in wine,
21 would be required to obtain a separate and distinct wine
22 permit. A retail liquor licensee who presently has the
23 privilege of selling wine for on-premise comsumption would
24 not need additional authority.
25 Wine containing more than 17% alcohol by weight would
26 continue to be subject to the present alcoholic beverage
27 provisions. Wine containing less than 17% would be imported,
28 wholesaled and retailed through private facilities. Importer's
29 and wholesaler's certificates and permits, respectively, would
30 be approved and issued by the department. Retail permits
31 for the sale of wine would require approval of the local
32 authority.
33 Prohibitions against licensees and beer permittees apply
34 equally to wine permittees, except that the department would
35 have no authority to regulate the transportation of wine.

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Suspension and revocation procedures respecting a wine permit would be the same as for a liquor license or beer permit.

Fees for the issuance of wine permits are of fixed rate except for the class "C" fee which is based upon sales volume and the size of the wine sales area of the outlet.

Importers may determine who wholesales wine in given geographic areas, and may select one or more wholesalers for a given area. An importer may not discriminate between wholesalers with whom that importer does business.

The department establishes a minimum price for the retail sale of wine by adding a percentage markup to the wholesale price, and a one thousand dollar fine and a one-year license suspension, or both, is attached for selling below the established price. The department may authorize below minimum prices in limited circumstances, such as discontinuance of business.

In place of the current state revenue for wine sales, this bill imposes an excise tax of forty cents per gallon on wine sold for retail resale within this state, the tax being collected and paid to the state by the wholesaler. Two-thirds of the gallonage tax is distributed to the cities and one-third to the military service tax fund, subject to the maximum amount so distributable, as provided in section 55 of this bill.

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SENATE FILE 218
FISCAL NOTE

Date Prepared April 28, 1975

Requested by: Senator Kelly

Prepared in regard to Amendment S-3852 to Senate File 218, An Act relating to the private sale, control, distribution and taxation of wine containing not more than seventeen percent alcohol by weight.

LEGISLATIVE FISCAL BUREAU

Wine In Grocery Stores
April 28, 1975

	Est. 1976 Wine Revs. Cur. Stat. .49	Est. 1976 Wine Revs. Under Prop. .99	Est. 1976 Wine Revs. Per Capita 1.30	Est. 1977 Wine Revs. Cur. Stat. .51	Est. 1977 Wine Revs. Under Pro. 1.04	Est. 1977 Wine Revs Per Capita 1.37
Wine Sales in Gallons	1,410,000	3,468,000	4,375,200	1,481,000	3,023,000	3,963,960
Sales In Dollars	$10,575,000			11,107,500		
Cost of Sales	5,922,000			6,220,200		
Gross Profit	$ 4,653,000			4,887,300		
Operating Expense	470,000			495,000		
	$ 4,183,000			4,392,300		
Affect on General Fund:						
Liquidation of Inv.	$ -	1,500,000	1,500,000	-	-	-
Net Profit (Less Dist. to Local Govt.)	2,596,750	-	-	2,726,175	-	-
Sales Tax:						
1) 90% of Sales @ 3%	285,525	-	-	299,903	-	-
2) Avg. Price $7.50 less 600,000 Inv.	-	645,000	849,420	-	680,175	891,891
3) Licensee Sales @ 100% Markup X 3%	63,450	-	-	66,645	-	-
Licensee Tax 15%	158,625	-	-	166,612	-	-
Annual Permit Fees	-	730,000	730,000	-	730,000	730,000
Gallonage Tax: 70¢ p.g.	-	2,427,600	3,062,640	-	2,116,100	2,774,772
Certificate of Compli.	1,800	20,000	20,000	1,800	20,000	20,000
Income Tax (10% of Sales @ 100% Markup X 15% X 7%)	22,208	225,855	297,297	23,326	236,061	312,162
	$3,128,358	5,548,455	6,459,357	3,284,461	3,784,336	4,728,825
Less Distribution:						
Cities & Towns - 2/3	-	884,000	884,000	-	928,200	928,200
County - 1/3	-	442,000	442,000	-	464,100	464,100
Total to General Fund	$3,128,358	4,222,455	5,133,357	3,284,461	2,392,036	3,336,525
Affect on Local Govt. Income:						
Cities & Towns	$1,057,500	884,000	884,000	1,110,750	928,200	928,200
Counties	528,750	442,000	442,000	555,375	464,100	464,100
Personal Prop. Tax (.115463 mills/ $31.18 per M)	-	140,310	140,310	-	140,310	140,310
Total	$1,586,250	1,466,310	1,466,310	1,666,125	1,532,610	1,532,61[illegible]

FILED GERRY D. RANKIN

ASSUMPTIONS

That Wine sales under the state system will rise 5% per year in terms of gallons sold.

That approximately $1.5 million in wine inventory will be liquidated the first year under the proposed.

That 600,000 gallons of wine will be needed to fill the pipeline the first year.

All wine sold will average $7.50 per gallon at the retail level.

Licensee tax and sales tax computations based on 10% sales to licensee's.

License fee calculations under proposed bill are based on the following:

	Cost	Number	Revenue
Class A	$ 250	120	$ 30,000
Class B	200	1,600	320,000
Class C	200	1,900	380,000
Certificate of Compliance	100	200	20,000
			$ 750,000

Also the estimate compares estimated revenues under current statutes to two different revenue estimates under the proposed--one being at a lower consumption level and the other at a higher consumption level.