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SENATE FILE 2235
BY COMMITTEE ON STATE GOVERNMENT
Approved (p. 551)

FILED MAR 4 1986

Passed Senate, Date 3-17-86 (p. 744) Passed House, Date _____
Vote: Ayes 31 Nays 14 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the sale of alcoholic liquor and wine by
2 allowing special retailers to sell alcoholic liquor in areas
3 which are not adequately served by state liquor stores and by
4 limiting the sale of wine by the beer and liquor control
5 department to sale at retail.

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

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S.F. 2235

1 Section 1. Section 123.3, subsection 21, Code Supplement
2 1985, is amended to read as follows:

3 21. "State liquor store" means a store established by the
4 department under this chapter on premises owned or leased by
5 the department and operated exclusively by the department with
6 its own employees for the sale of alcoholic liquor and wine in
7 the original package for consumption off the premises.

8 Sec. 2. Section 123.3, Code Supplement 1985, is amended by
9 adding the following new subsection:

10 NEW SUBSECTION. 36. "Special retailer" means a person li-
11 censed by the department to sell alcoholic liquors in a market
12 area designated as a special retail market.

13 Sec. 3. Section 123.16, subsection 2, Code Supplement
14 1985, is amended by adding the following new paragraphs:

15 NEW PARAGRAPH. e. The designation of market areas as
16 special retail markets where it is not economical to operate
17 state liquor stores.

18 NEW PARAGRAPH. f. The definition of the boundaries of
19 special retail markets.

20 Sec. 4. Section 123.20, subsection 1, Code Supplement
21 1985, is amended to read as follows:

22 1. To purchase alcoholic liquors and wine for resale by
23 the department in the manner set forth in this chapter.

24 Sec. 5. Section 123.20, Code Supplement 1985, is amended
25 by adding the following new subsections:

26 NEW SUBSECTION. 10. To designate market areas as special
27 retail markets where it is not economical to operate state
28 liquor stores.

29 NEW SUBSECTION. 11. To appoint a designee to conduct a
30 public hearing on the designation of a market area as a
31 special retail market.

32 NEW SUBSECTION. 12. To license persons as special
33 retailers in special retail markets.

34 Sec. 6. Section 123.21, subsections 3 and 8, Code
35 Supplement 1985, are amended to read as follows:

1 3. Regulating the purchase of alcoholic liquor generally,
2 the sale of the liquor to special retailers, and the
3 furnishing of such liquor and wine to state liquor stores
4 established under this chapter, and determining the classes,
5 varieties, and brands of alcoholic liquors and wine to be kept
6 in state warehouses or for sale at any a state liquor store.

7 8. Prescribing, subject to this chapter, the days and
8 hours during which state liquor stores shall be kept open for
9 the purpose of the sale of alcoholic liquors and wine.

10 Sec. 7. Section 123.21, Code Supplement 1985, is amended
11 by adding the following new subsections:

12 NEW SUBSECTION. 13. Prescribing the conditions and
13 qualifications necessary for selection as a special retailer.

14 NEW SUBSECTION. 14. Prescribing the hours for sale of
15 alcoholic liquor by a special retailer which shall not be less
16 than the hours established for state liquor stores.

17 Sec. 8. Section 123.22, unnumbered paragraph 1, Code
18 Supplement 1985, is amended to read as follows:

19 The department has the exclusive right of importation into
20 the state of all forms of alcoholic liquor, except as
21 otherwise provided in this chapter, and a person shall not
22 import alcoholic liquor, except that an individual of legal
23 age may import and have in the individual's possession an
24 amount of alcoholic liquor not exceeding one quart or, in the
25 case of alcoholic liquor personally obtained outside the
26 United States, one gallon for personal consumption only in a
27 private home or other private accommodation. No distillery
28 shall sell any alcoholic liquor within the state to any person
29 but only to the department, except as otherwise provided in
30 this chapter. It is the intent of this section to vest in the
31 department exclusive control within the state both as
32 purchaser and vendor of all alcoholic liquor sold by
33 distilleries within the state or imported, except beer and
34 wine, and except as otherwise provided in this chapter. The
35 department may continue to purchase wine from persons holding

1 a vintner's certificate of compliance or a class "A" wine
2 permit ~~for-resale~~, but shall resell it only at retail in state
3 liquor stores.

4 Sec. 9. NEW SECTION. 123.23A SPECIAL RETAIL MARKETS AND
5 SPECIAL RETAILER LICENSE.

6 1. The director shall designate market areas where it is
7 not economical to operate a state liquor store as special
8 retail markets and shall define the geographic area
9 encompassed by each special retail market. In defining a
10 special retail market the director shall consider political
11 boundaries, geographic features, and the retail trade
12 potential of the area. A city included in a special retail
13 market shall be included in its entirety. Prior to
14 designating a market area as a special retail market the
15 director shall appoint a designee to conduct a public hearing
16 on the areas to be included in the special retail market and
17 the decision to designate a special retail market. The public
18 hearing shall be conducted within the boundaries of the
19 proposed special retail market.

5305 20 2. Upon the designation of a market area as a special
21 retail market, any person who meets the qualifications for
22 selection as a special retailer shall be licensed by the
23 department as a special retailer to sell alcoholic liquor at
24 retail for consumption off the premises upon approval under
25 section 123.32. The licensed premises of the special retailer
26 must be located within the special retail market and a
27 separate license is required for each location. Application
28 for a license as a special retailer shall be made on forms
29 provided by the department. The fee for a special retailer
30 license is one hundred dollars. A person licensed as a
31 special retailer may also hold a class "B" wine permit or a
32 class "C" beer permit or both.

33 3. A special retailer shall purchase alcoholic liquor for
34 resale from the department only, and shall sell alcoholic
35 liquor at prices which are established by the department for

53721 sales by a state liquor store. The department may sell liquor
2 to a special retailer at prices fixed by the department in a
3 manner which will allow a special retailer a reasonable profit
4 margin upon resale.

5 Sec. 10. Section 123.25, Code 1985, is amended by adding
6 the following new unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. A special retailer or an
8 officer, agent, or employee of a special retailer shall not
9 consume alcoholic liquor on the licensed premises of the
10 special retailer, and shall not allow alcoholic liquor to be
11 consumed on those premises.

12 Sec. 11. Section 123.26, Code 1985, is amended to read as
13 follows:

14 123.26 RESTRICTIONS ON SALES -- SEALS -- LABELING.

15 Alcoholic liquor shall not be sold by the department or a
16 special retailer to a purchaser except in a sealed container
17 with identifying markers as prescribed by the director and
18 affixed on the premises of a state warehouse or state liquor
19 store and no such container shall be opened upon the premises
20 of a state warehouse, special retailer, or state liquor store.
21 Possession of alcoholic liquors which do not carry the
22 prescribed identifying markers is a violation of this chapter
23 except as provided in section 123.22, and except as authorized
24 by the council pursuant to section 123.56, subsection 4.

25 Sec. 12. Section 123.27, unnumbered paragraph 1, Code
26 Supplement 1985, is amended to read as follows:

27 It is unlawful to transact the sale or delivery of
28 alcoholic liquor in, on, or from the premises of a state
29 liquor store, special retailer, or state warehouse:

30 Sec. 13. Section 123.28, unnumbered paragraph 1, Code
31 Supplement 1985, is amended to read as follows:

32 It is lawful to transport, carry, or convey alcoholic
33 liquors from the place of purchase by the department to a
34 state warehouse, state store, special retailer, or depot
35 established by the department or from one such place to

1 another and, when so permitted by this chapter, it is lawful
2 for a common carrier or other person to transport, carry, or
3 convey alcoholic liquor sold by a vendor from a state
4 warehouse, state store, depot, special retailer, or point of
5 purchase by the state to any place to which the liquor may be
6 lawfully delivered under this chapter. Notwithstanding
7 section 321.230, sections 321.225 and 321.226 do not apply to
8 department employees in the regular course of their
9 employment. A common carrier or other person shall not break
10 or open or allow to be broken or opened a container or package
11 containing alcoholic liquor or use or drink or allow to be
12 used or drunk any alcoholic liquor while it is being
13 transported or conveyed, but this section does not prohibit a
14 private person from transporting individual bottles or
15 containers of alcoholic liquor exempted pursuant to section
16 123.22 and individual bottles or containers bearing the
17 identifying mark prescribed in section 123.26 which have been
18 opened previous to the commencement of the transportation.
19 This section does not affect the right of a special permit or
20 liquor control license holder to purchase, possess, or
21 transport alcoholic liquors subject to ~~the-provisions-of~~ this
22 chapter.

23 Sec. 14. Section 123.30, subsection 3, paragraphs a, b,
24 and c, Code Supplement 1985, are amended to read as follows:

25 a. CLASS "A". A class "A" liquor control license may be
26 issued to a club and ~~shall-authorize~~ authorizes the holder to
27 purchase alcoholic liquors from only the department, wine from
28 ~~the-department-or~~ only class "A" wine permittees, and native
29 wines from native wine manufacturers, and to sell liquors,
30 wine, and beer, to bona fide members and their guests by the
31 individual drink for consumption on the premises only.

32 b. CLASS "B". A class "B" liquor control license may be
33 issued to a hotel or motel and ~~shall-authorize~~ authorizes the
34 holder to purchase alcoholic liquors from only the department,
35 wine from ~~the-department-or~~ only class "A" wine permittees,

1 and native wines from native wine manufacturers, and to sell
 2 liquors, wine, and beer, to patrons by the individual drink
 3 for consumption on the premises only~~;~~; however, beer may also
 4 be sold for consumption off the premises. Each license ~~shall~~
 5 ~~be~~ is effective throughout the premises described in the
 6 application.

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

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17 A special class "C" liquor control license may be issued,
 18 and ~~shall-authorize~~ authorizes the holder to purchase wine
 19 from ~~the-department-or~~ class "A" wine permittees only, and to
 20 sell wine and beer to patrons by the individual drink for
 21 consumption on the premises only~~;~~; however, beer may also be
 22 sold for consumption off the premises. The license issued to
 23 holders of a special class "C" license shall clearly state on
 24 its face that the license is limited.

25 Sec. 15. Section 123.32, subsections 1, 2, and 4, Code
 26 Supplement 1985, is amended to read as follows:

27 1. FILING OF APPLICATION. An application for a class "A",
 28 class "B", or class "C" liquor control license, for a special
 29 retailer license, for a retail beer permit as provided in
 30 sections 123.128 and 123.129, or for a class "B" retail wine
 31 permit as provided in section 123.176, accompanied by the
 32 required fee and bond, shall be filed with the appropriate
 33 city council if the premises for which the license or permit
 34 is sought are located within the corporate limits of a city,
 35 or with the board of supervisors if the premises for which the

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

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

23 4. APPEAL TO HEARING BOARD. Any applicant for a liquor
24 control license, special retailer license, wine permit, or
25 beer permit may appeal from the director's disapproval of an
26 application for a license or permit to the department hearing
27 board, established pursuant to section 123.15. If upon appeal
28 the hearing board determines that the local authority acted
29 arbitrarily, capriciously, or without reasonable cause in
30 disapproving the application, or that, where if the local
31 authority approved the application, the director's own
32 disapproval should be reversed, it shall order issuance of a
33 license or permit. The same right of appeal to the hearing
34 board shall be afforded a liquor control licensee, special
35 retailer, wine permittee, or beer permittee, whose license or

1 permit has been suspended or revoked under this chapter, and
2 the hearing board shall reduce the period of suspension or
3 order reinstatement of the license or permit for good cause
4 shown.

5 Sec. 16. Section 123.34, subsection 1, Code Supplement
6 1985, is amended to read as follows:

7 1. Liquor control licenses, special retailer licenses,
8 wine permits, and beer permits, unless sooner suspended or
9 revoked, expire one year from date of issuance. The director
10 shall give sixty days' written notice of the expiration to
11 each licensee or permittee. However, the director may issue
12 six-month or eight-month seasonal liquor control licenses,
13 class "B" wine permits, or class "B" beer permits for a
14 proportionate part of the license or permit fee or may issue
15 fourteen-day liquor licenses, wine permits, or beer permits as
16 provided in subsection 2. No refund shall be made for
17 seasonal licenses or permits or for fourteen-day liquor
18 licenses, wine permits, or beer permits. No seasonal license
19 or permit shall be renewed except after a period of two
20 months.

21 Sec. 17. Section 123.35, Code Supplement 1985, is amended
22 to read as follows:

23 123.35 SIMPLIFIED RENEWAL PROCEDURE.

24 The director shall prescribe simplified application forms
25 for the renewal of liquor control licenses, special retailer
26 licenses, wine permits, and beer permits which may be filed by
27 licensees and permittees in lieu of a detailed renewal
28 application form when qualifications and qualification
29 information have not changed since the original issuance of
30 the license or permit. The simplified form shall require the
31 licensee or permittee to verify under oath that the
32 information contained in the original application remains
33 current, and that no reason exists for the department's
34 refusal to renew the license or permit as originally issued.

35 ~~Such~~ The application, accompanied by the required fee and

1 bond, shall be filed in the same manner as is provided for
2 filing the initial application.

3 Sec. 18. Section 123.38, unnumbered paragraph 1, Code
4 Supplement 1985, is amended to read as follows:

5 A special liquor permit, liquor control license, special
6 retailer license, wine permit, or beer permit is a personal
7 privilege and is revocable for cause. It is not property nor
8 is it subject to attachment and execution nor alienable nor
9 assignable, and it ~~shall cease~~ ceases upon the death of the
10 permittee or licensee. However, the director may ~~in the~~
11 ~~director's discretion~~ allow the executor or administrator of a
12 permittee or licensee to operate the business of the decedent
13 for a reasonable time not to exceed the expiration date of the
14 permit or license. Every permit or license shall be issued in
15 the name of the applicant and no person holding a permit or
16 license shall allow any other person to use it.

17 Sec. 19. Section 123.39, Code Supplement 1985, is amended
18 to read as follows:

19 123.39 SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

20 Any A liquor control license, special retailer license,
21 wine permit, or beer permit issued under this chapter may,
22 after notice in writing to the license or permit holder and
23 reasonable opportunity for hearing, and subject to section
24 123.50 ~~where~~ as applicable, may be suspended for a period not
25 to exceed one year or revoked by the local authority or the
26 director for any of the following causes:

27 1. Misrepresentation of ~~any~~ a material fact in the
28 application for the license or permit.

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

30 3. Any A change in the ownership or interest in the
31 business operated under a class "A", class "B", or class "C"
32 liquor control license, special retailer license, or any wine
33 or beer permit, which change was not previously reported to
34 and approved by the local authority and the department.

35 4. An event which would have resulted in disqualification

1 from receiving the license or permit when originally issued.

2 5. Any A sale, hypothecation, or transfer of the license
3 or permit.

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

7 ~~Local-authorities~~ A local authority may suspend any a
8 retail wine or beer permit, or liquor control license, or
9 special retailer license for a violation of any an ordinance
10 or regulation adopted by the local authority. Local
11 authorities may adopt ordinances or regulations for the
12 location of the premises of retail wine or beer, special
13 retailer, and liquor control licensed establishments and local
14 authorities may adopt ordinances, not in conflict with this
15 chapter and that do not diminish the hours during which beer,
16 wine, or alcoholic beverages may be sold or consumed at
17 retail, governing any other activities or matters which may
18 affect the retail sale and consumption of beer, wine, and
19 alcoholic liquor and the health, welfare, and morals of the
20 community involved.

21 When a liquor license, special retailer license, or wine or
22 beer permit is suspended after a hearing as a result of
23 violations a violation of this chapter by the licensee, or
24 permittee or the licensee's or permittee's agents or
25 employees, the premises which were licensed by the license or
26 permit shall not be relicensed for a new applicant until the
27 suspension has terminated or time of suspension has elapsed,
28 or ninety days have elapsed since the commencement of the
29 suspension, whichever occurs first. However, this section
30 does not prohibit the premises from being relicensed to a new
31 applicant before the suspension has terminated or before the
32 time of suspension has elapsed or before ninety days have
33 elapsed from the commencement of the suspension, if the
34 premises prior to the time of the suspension had been
35 purchased under contract, and the vendor under that contract

1 had exercised the person's rights under chapter 656 and sold
2 the property to a different person who is not related to the
3 previous licensee or permittee by marriage or within the third
4 degree of consanguinity or affinity and if the previous
5 licensee or permittee does not have a financial interest in
6 the business of the new applicant.

7 Sec. 20. Section 123.40, Code Supplement 1985, is amended
8 to read as follows:

9 123.40 EFFECT OF REVOCATION.

10 Any A liquor control licensee, special retailer, wine
11 permittee, or beer permittee whose license or permit is
12 revoked under this chapter ~~shall~~ is not thereafter be
13 permitted to hold a liquor control license, special retailer
14 license, wine permit, or beer permit in the state of Iowa for
15 a period of two years from the date of revocation. A spouse
16 or business associate holding ten percent or more of the
17 capital stock or ownership interest in the business of a
18 person whose license or permit has been revoked shall not be
19 issued a liquor control license, wine permit, or beer permit,
20 and no liquor control license, wine permit, or beer permit
21 shall be issued which covers any business in which such person
22 has a financial interest for a period of two years from the
23 date of revocation. If a license or permit is revoked, the
24 premises which had been covered by the license or permit shall
25 not be relicensed for one year.

26 Sec. 21. Section 123.49, subsection 2, unnumbered
27 paragraph 1, Code Supplement 1985, is amended to read as
28 follows:

29 A person or club holding a liquor control license, special
30 retailer license, or retail wine or beer permit under this
31 chapter, and the person's or club's agents or employees, shall
32 not do any of the following:

33 Sec. 22. Section 123.49, subsection 2, Code Supplement
34 1985, is amended by adding the following new paragraph:

35 NEW PARAGRAPH. 1. In the case of a special retailer, sell

1 or dispense alcoholic liquor during hours other than those
2 allowed under rules of the department.

3 Sec. 23. Section 123.50, subsections 2 and 3, Code
4 Supplement 1985, are amended to read as follows:

5 2. The conviction of any a liquor control licensee,
6 special retailer, wine permittee, or beer permittee for a
7 violation of any of the provisions of section 123.49, subject
8 to subsection 3 of this section, is grounds for the suspension
9 or revocation of the license or permit by the department or
10 the local authority. However, if any a liquor control
11 licensee or special retailer is convicted of any a violation
12 of subsection 2, paragraphs paragraph "a", "d" or "e", of that
13 section, or any wine or beer permittee is convicted of a
14 violation of paragraph "a" or "e" of that section, the liquor
15 control license, special retailer license, wine permit, or
16 beer permit shall be revoked and shall immediately be
17 surrendered by the holder, and the bond of the license or
18 permit holder shall be forfeited to the department.

19 3. If any a liquor control licensee, special retailer,
20 wine permittee, beer permittee, or employee of a licensee or
21 permittee is convicted of a violation of section 123.49,
22 subsection 2, paragraph "h", or if a retail wine or beer
23 permittee is convicted of a violation of paragraph "i" of that
24 subsection, the director or local authority shall, in addition
25 to the other penalties fixed for such violations by this
26 section, assess a penalty as follows:

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

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

34 c. Upon a third conviction within a period of five years,
35 the violator's liquor control license, special retailer

1 license, wine permit, or beer permit shall be suspended for a
2 period of sixty days.

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

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6 Sec. 24. Section 123.55, subsections 8 and 9, Code
7 Supplement 1985, are amended to read as follows:

8 8. The number of liquor control licenses, special retailer
9 licenses, wine permits, and beer permits issued, by class, the
10 number in effect on the last day included in the report, and
11 the number which have been suspended or revoked during the
12 period covered by the report.

13 9. Amount of fees paid to the department from liquor
14 control licenses, special retailer licenses, wine permits, and
15 beer permits, in gross, and the amount of liquor control
16 license fees returned to local subdivisions of government as
17 provided under this chapter.

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18 Sec. 25. Section 123.178, subsection 3, Code Supplement
19 1985, is amended to read as follows:

20 3. A person holding a class "B" wine permit may purchase
21 wine for resale only ~~from the department or~~ from a person
22 holding a class "A" wine permit.

23 EXPLANATION

24 This bill provides that the beer and liquor control
25 department shall designate market areas where it is determined
26 to be uneconomical to operate a state liquor store. In
27 defining a special retail market the department must consider
28 political boundaries, geographic features, and the retail
29 trade potential of the area, and a city included in the
30 special market area must be included in its entirety. Prior
31 to designating a market area as a special retail market the
32 department is required to hold a hearing in the area.

33 Once an area is defined as a special retail market the
34 department may license special retailers to sell alcoholic
35 liquor from licensed premises within the special retail

1 markets. The department shall adopt rules for qualification
2 as a special retailer, but the special retailer may also hold
3 a class "B" wine permit or class "C" beer permit. Application
4 for a license as a special retailer shall be made in the
5 manner of application for other licenses and permits and a
6 special retailer license is subject to most of the same terms
7 and restrictions as other licenses and permits. The special
8 retailer is required to buy alcoholic liquor from the
9 department only, at a price set by the department to allow a
10 reasonable profit on resale, and the special retailer must
11 sell the alcoholic liquor at prices set by the department for
12 sale in state liquor stores. The department shall set the
13 hours for sale for special retailers which shall not be less
14 than the hours for state liquor stores. The fee for a special
15 retailer license is \$100.

16 The bill also limits wine sales by the state to sales at
17 retail in state liquor stores. The specific limiting
18 provision is found at the end of section 8 of the bill.
19 Liquor control licensees and class "B" wine permittees are
20 required to buy wine only from class "A" wine permittees, but
21 the state may continue to act as its own wholesaler.

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SENATE FILE 2235

S-5328

1 Amend Senate Amendment S-5308 to Senate File 2235
2 as follows:
3 1. Page 2, by inserting after line 17 the
4 following:
5 "7. Page 13, by inserting before line 6 the
6 following:
7 "Sec. 25. Section 123.53, subsection 7, Code
8 Supplement 1985, is amended to read as follows:
9 7. The treasurer of state shall credit to the
10 military service tax fund described in chapter 426A, a
11 sum of money equal to at least five percent of the
12 gross amount of sales made by the state liquor stores
13 in the cities of the state and at least five percent
14 of the gross amount of sales of alcoholic liquor made
15 by the department to special retailers in the cities
16 of the state but not less than six million four
17 hundred thousand dollars. Any amount thus credited
18 shall be allocated to the various taxing districts of
19 the state as reimbursement for losses of revenue due
20 to exemption or remission of property taxes which
21 would be imposed upon property upon which soldiers'
22 exemptions or soldiers' tax credits are provided under
23 such terms as the general assembly may provide."
24 2. By renumbering sections according to this
25 amendment.

S-5328 Filed March 12, 1986

BY HORN

3/17/86

SENATE FILE 2235

S-5372

1 Amend Senate File 2235 as follows:
2 1. Page 4, line 1, by inserting after the word
3 "sell" the words "and deliver alcoholic".

S-5372 Filed and adopted March 17, 1986 BY HORN

SENATE FILE 2235

S-5308

1 Amend Senate File 2235 as follows:

2 1. Page 3, line 29, by inserting after the word
3 "department." the following: "An applicant for a
4 special retailer license shall furnish a bond in the
5 amount of seven hundred fifty dollars in the form
6 prescribed and furnished by the department with good
7 and sufficient sureties to be approved by the director
8 conditioned upon compliance with this chapter."

9 2. Page 3, line 30, by inserting after the word
10 "dollars" the words "which shall be credited by the
11 department when received to the beer and liquor
12 control fund under section 123.53".

13 3. Page 3, by striking lines 31 and 32 and
14 inserting the following: "special retailer may also
15 hold a class "B" or "C" liquor control license, a
16 class "B" wine permit, or a class "C" beer permit, or
17 any combination of those licenses and permits."

18 4. Page 6, line 6, by inserting after the word
19 "application." the following: "Alcoholic liquor may
20 be sold for consumption off the licensed premises when
21 sold in the original container if a class "B" liquor
22 control licensee also holds a special retailer
23 license."

24 5. Page 6, line 16, by inserting after the word
25 "premises." the following: "Alcoholic liquor may be
26 sold for consumption off the licensed premises when
27 sold in the original container if a class "C" liquor
28 control licensee also holds a special retailer
29 license."

30 6. Page 13, by inserting after line 5 the
31 following:

32 "Sec. 24. Section 123.53, subsection 3, Code
33 Supplement 1985, is amended to read as follows:

34 3. The treasurer of state shall semiannually
35 distribute a sum of money equal to at least ten
36 percent of the gross sales made by the state liquor
37 stores and at least ten percent of the gross sales of
38 alcoholic liquor made by the department to special
39 retailers, but not less than six million four hundred
40 thousand dollars to the cities of the state. Such
41 amount shall be distributed to the cities of the state
42 in proportion to the population that each incorporated
43 city bears to the total population of all incorporated
44 cities of the state as computed by the latest federal
45 census. A city may have one special federal census
46 taken each decade, and the population figure thus
47 obtained shall be used in apportioning amounts under
48 this subsection beginning the calendar year following
49 the year in which the special census is certified by
50 the secretary of state. Such apportionment shall be

1 made semiannually as of July 1 and January 1 of each
2 year. Warrants for the same shall be issued by the
3 state comptroller upon certification of the treasurer
4 of state and mailed to the city clerk of each
5 incorporated city of the state and shall be made
6 payable to such incorporated city and shall be subject
7 to expenditure under the direction of the city council
8 or other governing bodies of such incorporated city
9 for any lawful municipal purpose. It shall be a
10 lawful municipal purpose for cities to allocate a
11 portion of the above funds for the purpose of
12 financing the activities of a city commission or
13 committee on alcoholism, such commission or committee
14 to be appointed by the mayor or by the council or
15 both. The commission or committee may use any funds
16 so allocated for the treatment, rehabilitation, and
17 education of alcoholics in Iowa."

5325 18 7. Page 13, by inserting after line 17 the
19 following:

20 "Sec. 26. Section 123.96, subsection 2, Code
21 Supplement 1985, is amended to read as follows:
22 2. Except as allowed under section 123.95 and
23 except in the case of a liquor control licensee who
24 also holds a special retailer license, a licensee
25 shall not knowingly keep on the licensed premises nor
26 use for resale purposes any alcoholic liquor on which
27 the special tax has not been paid to the state. The
28 conviction of a violation of this section shall cause
29 the license held to automatically be revoked and the
30 license shall immediately be surrendered by the
31 holder, and the bond of the license holder shall be
32 forfeited to the department."

33 8. By renumbering sections as required by this
34 amendment.

S-5308 Filed March 11, 1986

BY HORN, DRAKE

Adopted as amended by 5328 3/17/86 (p. 144)

as amended 3/19 Failed to Pass 3/25 (p. 1005)
Amend (5568) & Do Pass 3/27 (p. 1073)

SENATE FILE **2235**
BY COMMITTEE ON STATE GOVERNMENT

(AS AMENDED AND PASSED BY THE SENATE MARCH 17, 1986)
_____ - New Language by the Senate

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

A BILL FOR

1 An Act relating to the sale of alcoholic liquor and wine by
2 allowing special retailers to sell alcoholic liquor in areas
3 which are not adequately served by state liquor stores and by
4 limiting the sale of wine by the beer and liquor control
5 department to sale at retail.

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

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S.F. 2235

1 Section 1. Section 123.3, subsection 21, Code Supplement
2 1985, is amended to read as follows:

3 21. "State liquor store" means a store established by the
4 department under this chapter on premises owned or leased by
5 the department and operated exclusively by the department with
6 its own employees for the sale of alcoholic liquor and wine in
7 the original package for consumption off the premises.

8 Sec. 2. Section 123.3, Code Supplement 1985, is amended by
9 adding the following new subsection:

10 NEW SUBSECTION. 36. "Special retailer" means a person li-
11 censed by the department to sell alcoholic liquors in a market
12 area designated as a special retail market.

13 Sec. 3. Section 123.16, subsection 2, Code Supplement
14 1985, is amended by adding the following new paragraphs:

15 NEW PARAGRAPH. e. The designation of market areas as
16 special retail markets where it is not economical to operate
17 state liquor stores.

18 NEW PARAGRAPH. f. The definition of the boundaries of
19 special retail markets.

20 Sec. 4. Section 123.20, subsection 1, Code Supplement
21 1985, is amended to read as follows:

22 1. To purchase alcoholic liquors and wine for resale by
23 the department in the manner set forth in this chapter.

24 Sec. 5. Section 123.20, Code Supplement 1985, is amended
25 by adding the following new subsections:

26 NEW SUBSECTION. 10. To designate market areas as special
27 retail markets where it is not economical to operate state
28 liquor stores.

29 NEW SUBSECTION. 11. To appoint a designee to conduct a
30 public hearing on the designation of a market area as a
31 special retail market.

32 NEW SUBSECTION. 12. To license persons as special
33 retailers in special retail markets.

34 Sec. 6. Section 123.21, subsections 3 and 8, Code
35 Supplement 1985, are amended to read as follows:

1 3. Regulating the purchase of alcoholic liquor generally,
2 the sale of the liquor to special retailers, and the
3 furnishing of such liquor and wine to state liquor stores
4 established under this chapter, and determining the classes,
5 varieties, and brands of alcoholic liquors and wine to be kept
6 in state warehouses or for sale at any a state liquor store.

7 8. Prescribing, subject to this chapter, the days and
8 hours during which state liquor stores shall be kept open for
9 the purpose of the sale of alcoholic liquors and wine.

10 Sec. 7. Section 123.21, Code Supplement 1985, is amended
11 by adding the following new subsections:

12 NEW SUBSECTION. 13. Prescribing the conditions and
13 qualifications necessary for selection as a special retailer.

14 NEW SUBSECTION. 14. Prescribing the hours for sale of
15 alcoholic liquor by a special retailer which shall not be less
16 than the hours established for state liquor stores.

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5714 17 Sec. 8. Section 123.22, unnumbered paragraph 1, Code
18 Supplement 1985, is amended to read as follows:

19 The department has the exclusive right of importation into
20 the state of all forms of alcoholic liquor, except as
21 otherwise provided in this chapter, and a person shall not
22 import alcoholic liquor, except that an individual of legal
23 age may import and have in the individual's possession an
24 amount of alcoholic liquor not exceeding one quart or, in the
25 case of alcoholic liquor personally obtained outside the
26 United States, one gallon for personal consumption only in a
27 private home or other private accommodation. No distillery
28 shall sell any alcoholic liquor within the state to any person
29 but only to the department, except as otherwise provided in
30 this chapter. It is the intent of this section to vest in the
31 department exclusive control within the state both as
32 purchaser and vendor of all alcoholic liquor sold by
33 distilleries within the state or imported, except beer and
34 wine, and except as otherwise provided in this chapter. The
35 department may continue to purchase wine from persons holding

1 a vintner's certificate of compliance or a class "A" wine
2 permit for-resale, but shall resell it only at retail in state
3 liquor stores.

4 Sec. 9. NEW SECTION. 123.23A SPECIAL RETAIL MARKETS AND
5 SPECIAL RETAILER LICENSE.

6 1. The director shall designate market areas where it is
7 not economical to operate a state liquor store as special
8 retail markets and shall define the geographic area
9 encompassed by each special retail market. In defining a
10 special retail market the director shall consider political
11 boundaries, geographic features, and the retail trade
12 potential of the area. A city included in a special retail
13 market shall be included in its entirety. Prior to
14 designating a market area as a special retail market the
15 director shall appoint a designee to conduct a public hearing
16 on the areas to be included in the special retail market and
17 the decision to designate a special retail market. The public
18 hearing shall be conducted within the boundaries of the
19 proposed special retail market.

20 2. Upon the designation of a market area as a special
21 retail market, any person who meets the qualifications for
22 selection as a special retailer shall be licensed by the
23 department as a special retailer to sell alcoholic liquor at
24 retail for consumption off the premises upon approval under
25 section 123.32. The licensed premises of the special retailer
26 must be located within the special retail market and a
27 separate license is required for each location. Application
28 for a license as a special retailer shall be made on forms
29 provided by the department. An applicant for a special
30 retailer license shall furnish a bond in the amount of seven
31 hundred fifty dollars in the form prescribed and furnished by
32 the department with good and sufficient sureties to be
33 approved by the director conditioned upon compliance with this
34 chapter. The fee for a special retailer license is one
35 hundred dollars which shall be credited by the department when

1 received to the beer and liquor control fund under section
2 123.53. A person licensed as a special retailer may also hold
54/3 a class "B" or "C" liquor control license, a class "B" wine
4 permit, or a class "C" beer permit, or any combination of
5 those licenses and permits.

55486 3. A special retailer shall purchase alcoholic liquor for
7 resale from the department only, and shall sell alcoholic
8 liquor at prices which are established by the department for
9 sales by a state liquor store. The department may sell and
10 deliver alcoholic liquor to a special retailer at prices fixed
11 by the department in a manner which will allow a special
12 retailer a reasonable profit margin upon resale.

13 Sec. 10. Section 123.25, Code 1985, is amended by adding
14 the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. A special retailer or an
16 officer, agent, or employee of a special retailer shall not
17 consume alcoholic liquor on the licensed premises of the
18 special retailer, and shall not allow alcoholic liquor to be
19 consumed on those premises.

20 Sec. 11. Section 123.26, Code 1985, is amended to read as
21 follows:

22 123.26 RESTRICTIONS ON SALES -- SEALS -- LABELING.

23 Alcoholic liquor shall not be sold by the department or a
24 special retailer to a purchaser except in a sealed container
25 with identifying markers as prescribed by the director and
26 affixed on the premises of a state warehouse or state liquor
27 store and no such container shall be opened upon the premises
28 of a state warehouse, special retailer, or state liquor store.
29 Possession of alcoholic liquors which do not carry the
30 prescribed identifying markers is a violation of this chapter
31 except as provided in section 123.22, and except as authorized
32 by the council pursuant to section 123.56, subsection 4.

33 Sec. 12. Section 123.27, unnumbered paragraph 1, Code
34 Supplement 1985, is amended to read as follows:

35 It is unlawful to transact the sale or delivery of

1 alcoholic liquor in, on, or from the premises of a state
2 liquor store, special retailer, or state warehouse:

3 Sec. 13. Section 123.28, unnumbered paragraph 1, Code
4 Supplement 1985, is amended to read as follows:

5 It is lawful to transport, carry, or convey alcoholic
6 liquors from the place of purchase by the department to a
7 state warehouse, state store, special retailer, or depot
8 established by the department or from one such place to
9 another and, when ~~so~~ permitted by this chapter, it is lawful
10 for a common carrier or other person to transport, carry, or
11 convey alcoholic liquor sold by a vendor from a state
12 warehouse, state store, depot, special retailer, or point of
13 purchase by the state to any place to which the liquor may be
14 lawfully delivered under this chapter. Notwithstanding
15 section 321.230, sections 321.225 and 321.226 do not apply to
16 department employees in the regular course of their
17 employment. A common carrier or other person shall not break
18 or open or allow to be broken or opened a container or package
19 containing alcoholic liquor or use or drink or allow to be
20 used or drunk any alcoholic liquor while it is being
21 transported or conveyed, but this section does not prohibit a
22 private person from transporting individual bottles or
23 containers of alcoholic liquor exempted pursuant to section
24 123.22 and individual bottles or containers bearing the
25 identifying mark prescribed in section 123.26 which have been
26 opened previous to the commencement of the transportation.
27 This section does not affect the right of a special permit or
28 liquor control license holder to purchase, possess, or
29 transport alcoholic liquors subject to ~~the-provisions-of~~ this
30 chapter.

570 31 Sec. 14. Section 123.30, subsection 3, paragraphs a, b,
32 and c, Code Supplement 1985, are amended to read as follows:

33 a. CLASS "A". A class "A" liquor control license may be
34 issued to a club and ~~shall authorize~~ authorizes the holder to
5566 35 purchase alcoholic liquors from only the department, wine from

1 ~~the-department-or~~ only class "A" wine permittees, and native
2 wines from native wine manufacturers, and to sell liquors,
3 wine, and beer, to bona fide members and their guests by the
4 individual drink for consumption on the premises only.

5416 5 b. CLASS "B". A class "B" liquor control license may be
6 issued to a hotel or motel and ~~shall-authorize~~ authorizes the
5565 7 holder to purchase alcoholic liquors from only the department,
8 wine from ~~the-department-or~~ only class "A" wine permittees,
9 and native wines from native wine manufacturers, and to sell
10 liquors, wine, and beer, to patrons by the individual drink
11 for consumption on the premises only; however, beer may also
12 be sold for consumption off the premises. Each license ~~shall~~
13 be is effective throughout the premises described in the
14 application. Alcoholic liquor may be sold for consumption off
15 the licensed premises when sold in the original container if a
16 class "B" liquor control licensee also holds a special
17 retailer license.

16 18 c. CLASS "C". A class "C" liquor control license may be
19 issued to a commercial establishment but must be issued in the
20 name of the individuals who actually own the entire business,
21 and ~~shall-authorize~~ authorizes the holder to purchase
5568 22 alcoholic liquors from only the department, wine from the
23 ~~department-or~~ only class "A" wine permittees, and native wines
24 from native wine manufacturers, and to sell liquors, wine, and
25 beer, to patrons by the individual drink for consumption on
26 the premises only; however, beer may also be sold for
27 consumption off the premises. Alcoholic liquor may be sold
28 for consumption off the licensed premises when sold in the
29 original container if a class "C" liquor control licensee also
30 holds a special retailer license.

31 A special class "C" liquor control license may be issued,
32 and ~~shall-authorize~~ authorizes the holder to purchase wine
33 from ~~the-department-or~~ class "A" wine permittees only, and to
34 sell wine and beer to patrons by the individual drink for
35 consumption on the premises only; however, beer may also be

1 sold for consumption off the premises. The license issued to
2 holders of a special class "C" license shall clearly state on
3 its face that the license is limited.

4 Sec. 15. Section 123.32, subsections 1, 2, and 4, Code
5 Supplement 1985, is amended to read as follows:

6 1. FILING OF APPLICATION. An application for a class "A",
7 class "B", or class "C" liquor control license, for a special
8 retailer license, for a retail beer permit as provided in
9 sections 123.128 and 123.129, or for a class "B" retail wine
10 permit as provided in section 123.176, accompanied by the
11 required fee and bond, shall be filed with the appropriate
12 city council if the premises for which the license or permit
13 is sought are located within the corporate limits of a city,
14 or with the board of supervisors if the premises for which the
15 license or permit is sought are located outside the corporate
16 limits of a city. An application for a class "D" liquor
17 control license and for a class "A" beer or class "A" wine
18 permit, accompanied by the required fee and bond, shall be
19 filed with the department, which shall proceed in the same
20 manner as in the case of an application approved by local
21 authorities.

22 2. ACTION BY LOCAL AUTHORITIES. The local authority shall
23 either approve or disapprove the issuance of a liquor control
24 license, special retailer license, retail wine permit, or
25 retail beer permit, shall endorse its approval or disapproval
26 on the application and shall forward the application along
27 with the required fee and bond to the department. Upon the
28 initial application for a liquor control license, special
29 retailer license, retail wine permit, or retail beer permit,
30 the fact that the local authority determines that no liquor
31 control license, special retailer license, retail wine permit,
32 or retail beer permit shall be issued shall not be held to be
33 arbitrary, capricious, or without reasonable cause. There is
34 no limit upon the number of liquor control licenses, special
35 retailer licenses, retail wine permits, or retail beer permits

1 which may be approved for issuance by local authorities.

2 4. APPEAL TO HEARING BOARD. Any applicant for a liquor
3 control license, special retailer license, wine permit, or
4 beer permit may appeal from the director's disapproval of an
5 application for a license or permit to the department hearing
6 board, established pursuant to section 123.15. If upon appeal
7 the hearing board determines that the local authority acted
8 arbitrarily, capriciously, or without reasonable cause in
9 disapproving the application, or that, where if the local
10 authority approved the application, the director's own
11 disapproval should be reversed, it shall order issuance of a
12 license or permit. The same right of appeal to the hearing
13 board shall be afforded a liquor control licensee, special
14 retailer, wine permittee, or beer permittee, whose license or
15 permit has been suspended or revoked under this chapter, and
16 the hearing board shall reduce the period of suspension or
17 order reinstatement of the license or permit for good cause
18 shown.

19 Sec. 16. Section 123.34, subsection 1, Code Supplement
20 1985, is amended to read as follows:

21 1. Liquor control licenses, special retailer licenses,
22 wine permits, and beer permits, unless sooner suspended or
23 revoked, expire one year from date of issuance. The director
24 shall give sixty days' written notice of the expiration to
25 each licensee or permittee. However, the director may issue
26 six-month or eight-month seasonal liquor control licenses,
27 class "B" wine permits, or class "B" beer permits for a
28 proportionate part of the license or permit fee or may issue
29 fourteen-day liquor licenses, wine permits, or beer permits as
30 provided in subsection 2. No refund shall be made for
31 seasonal licenses or permits or for fourteen-day liquor
32 licenses, wine permits, or beer permits. No seasonal license
33 or permit shall be renewed except after a period of two
34 months.

35 Sec. 17. Section 123.35, Code Supplement 1985, is amended

1 to read as follows:

2 123.35 SIMPLIFIED RENEWAL PROCEDURE.

3 The director shall prescribe simplified application forms
4 for the renewal of liquor control licenses, special retailer
5 licenses, wine permits, and beer permits which may be filed by
6 licensees and permittees in lieu of a detailed renewal
7 application form when qualifications and qualification
8 information have not changed since the original issuance of
9 the license or permit. The simplified form shall require the
10 licensee or permittee to verify under oath that the
11 information contained in the original application remains
12 current, and that no reason exists for the department's
13 refusal to renew the license or permit as originally issued.

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

17 Sec. 18. Section 123.38, unnumbered paragraph 1, Code
18 Supplement 1985, is amended to read as follows:

19 A special liquor permit, liquor control license, special
20 retailer license, wine permit, or beer permit is a personal
21 privilege and is revocable for cause. It is not property nor
22 is it subject to attachment and execution nor alienable nor
23 assignable, and it ~~shall cease~~ ceases upon the death of the
24 permittee or licensee. However, the director may ~~in-the~~
25 ~~director's-discretion~~ allow the executor or administrator of a
26 permittee or licensee to operate the business of the decedent
27 for a reasonable time not to exceed the expiration date of the
28 permit or license. Every permit or license shall be issued in
29 the name of the applicant and no person holding a permit or
30 license shall allow any other person to use it.

31 Sec. 19. Section 123.39, Code Supplement 1985, is amended
32 to read as follows:

33 123.39 SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

34 Any A liquor control license, special retailer license,
35 wine permit, or beer permit issued under this chapter may,

1 after notice in writing to the license or permit holder and
2 reasonable opportunity for hearing, and subject to section
3 123.50 where as applicable, may be suspended for a period not
4 to exceed one year or revoked by the local authority or the
5 director for any of the following causes:

6 1. Misrepresentation of any a material fact in the
7 application for the license or permit.

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

9 3. Any A change in the ownership or interest in the
10 business operated under a class "A", class "B", or class "C"
11 liquor control license, special retailer license, or any wine
12 or beer permit, which change was not previously reported to
13 and approved by the local authority and the department.

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

16 5. Any A sale, hypothecation, or transfer of the license
17 or permit.

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

21 ~~Local-authorities~~ A local authority may suspend any a
22 retail wine or beer permit, or liquor control license, or
23 special retailer license for a violation of any an ordinance
24 or regulation adopted by the local authority. Local
25 authorities may adopt ordinances or regulations for the
26 location of the premises of retail wine or beer, special
27 retailer, and liquor control licensed establishments and local
28 authorities may adopt ordinances, not in conflict with this
29 chapter and that do not diminish the hours during which beer,
30 wine, or alcoholic beverages may be sold or consumed at
31 retail, governing any other activities or matters which may
32 affect the retail sale and consumption of beer, wine, and
33 alcoholic liquor and the health, welfare, and morals of the
34 community involved.

35 When a liquor license, special retailer license, or wine or

1 beer permit is suspended after a hearing as a result of
2 ~~violations~~ a violation of this chapter by the licensee, or
3 permittee or the licensee's or permittee's agents or
4 employees, the premises which were licensed by the license or
5 permit shall not be relicensed for a new applicant until the
6 suspension has terminated or time of suspension has elapsed,
7 or ninety days have elapsed since the commencement of the
8 suspension, whichever occurs first. However, this section
9 does not prohibit the premises from being relicensed to a new
10 applicant before the suspension has terminated or before the
11 time of suspension has elapsed or before ninety days have
12 elapsed from the commencement of the suspension, if the
13 premises prior to the time of the suspension had been
14 purchased under contract, and the vendor under that contract
15 had exercised the person's rights under chapter 656 and sold
16 the property to a different person who is not related to the
17 previous licensee or permittee by marriage or within the third
18 degree of consanguinity or affinity and if the previous
19 licensee or permittee does not have a financial interest in
20 the business of the new applicant.

21 Sec. 20. Section 123.40, Code Supplement 1985, is amended
22 to read as follows:

23 123.40 EFFECT OF REVOCATION.

24 Any A liquor control licensee, special retailer, wine
25 permittee, or beer permittee whose license or permit is
26 revoked under this chapter ~~shall~~ is not thereafter be
27 permitted to hold a liquor control license, special retailer
28 license, wine permit, or beer permit in the state of Iowa for
29 a period of two years from the date of revocation. A spouse
30 or business associate holding ten percent or more of the
31 capital stock or ownership interest in the business of a
32 person whose license or permit has been revoked shall not be
33 issued a liquor control license, wine permit, or beer permit,
34 and no liquor control license, wine permit, or beer permit
35 shall be issued which covers any business in which such person

1 has a financial interest for a period of two years from the
2 date of revocation. If a license or permit is revoked, the
3 premises which had been covered by the license or permit shall
4 not be relicensed for one year.

5 Sec. 21. Section 123.49, subsection 2, unnumbered
6 paragraph 1, Code Supplement 1985, is amended to read as
7 follows:

8 A person or club holding a liquor control license, special
9 retailer license, or retail wine or beer permit under this
10 chapter, and the person's or club's agents or employees, shall
11 not do any of the following:

12 Sec. 22. Section 123.49, subsection 2, Code Supplement
13 1985, is amended by adding the following new paragraph:

14 NEW PARAGRAPH. 1. In the case of a special retailer, sell
15 or dispense alcoholic liquor during hours other than those
16 allowed under rules of the department.

17 Sec. 23. Section 123.50, subsections 2 and 3, Code
18 Supplement 1985, are amended to read as follows:

19 2. The conviction of any a liquor control licensee,
20 special retailer, wine permittee, or beer permittee for a
21 violation of any of the provisions of section 123.49, subject
22 to subsection 3 of this section, is grounds for the suspension
23 or revocation of the license or permit by the department or
24 the local authority. However, if any a liquor control
25 licensee or special retailer is convicted of any a violation
26 of subsection 2, paragraphs paragraph "a", "d" or "e", of that
27 section, or any wine or beer permittee is convicted of a
28 violation of paragraph "a" or "e" of that section, the liquor
29 control license, special retailer license, wine permit, or
30 beer permit shall be revoked and shall immediately be
31 surrendered by the holder, and the bond of the license or
32 permit holder shall be forfeited to the department.

33 3. If any a liquor control licensee, special retailer,
34 wine permittee, beer permittee, or employee of a licensee or
35 permittee is convicted of a violation of section 123.49,

1 subsection 2, paragraph "h", or if a retail wine or beer
2 permittee is convicted of a violation of paragraph "i" of that
3 subsection, the director or local authority shall, in addition
4 to the other penalties fixed for such violations by this
5 section, assess a penalty as follows:

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

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

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

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

20 Sec. 24. Section 123.53, subsection 3, Code Supplement
21 1985, is amended to read as follows:

22 3. The treasurer of state shall semiannually distribute a
23 sum of money equal to at least ten percent of the gross sales
24 made by the state liquor stores and at least ten percent of
25 the gross sales of alcoholic liquor made by the department to
26 special retailers, but not less than six million four hundred
27 thousand dollars to the cities of the state. Such amount
28 shall be distributed to the cities of the state in proportion
29 to the population that each incorporated city bears to the
30 total population of all incorporated cities of the state as
31 computed by the latest federal census. A city may have one
32 special federal census taken each decade, and the population
33 figure thus obtained shall be used in apportioning amounts
34 under this subsection beginning the calendar year following
35 the year in which the special census is certified by the

1 secretary of state. Such apportionment shall be made
2 semiannually as of July 1 and January 1 of each year.
3 Warrants for the same shall be issued by the state comptroller
4 upon certification of the treasurer of state and mailed to the
5 city clerk of each incorporated city of the state and shall be
6 made payable to such incorporated city and shall be subject to
7 expenditure under the direction of the city council or other
8 governing bodies of such incorporated city for any lawful
9 municipal purpose. It shall be a lawful municipal purpose for
10 cities to allocate a portion of the above funds for the
11 purpose of financing the activities of a city commission or
12 committee on alcoholism, such commission or committee to be
13 appointed by the mayor or by the council or both. The
14 commission or committee may use any funds so allocated for the
15 treatment, rehabilitation, and education of alcoholics in
16 Iowa.

17 Sec. 25. Section 123.53, subsection 7, Code Supplement
18 1985, is amended to read as follows:

19 7. The treasurer of state shall credit to the military
20 service tax fund described in chapter 426A, a sum of money
21 equal to at least five percent of the gross amount of sales
22 made by the state liquor stores in the cities of the state and
23 at least five percent of the gross amount of sales of
24 alcoholic liquor made by the department to special retailers
25 in the cities of the state but not less than six million four
26 hundred thousand dollars. Any amount thus credited shall be
27 allocated to the various taxing districts of the state as
28 reimbursement for losses of revenue due to exemption or
29 remission of property taxes which would be imposed upon
30 property upon which soldiers' exemptions or soldiers' tax
31 credits are provided under such terms as the general assembly
32 may provide.

33 Sec. 26. Section 123.55, subsections 8 and 9, Code
34 Supplement 1985, are amended to read as follows:

35 8. The number of liquor control licenses, special retailer

1 licenses, wine permits, and beer permits issued, by class, the
2 number in effect on the last day included in the report, and
3 the number which have been suspended or revoked during the
4 period covered by the report.

5 9. Amount of fees paid to the department from liquor
6 control licenses, special retailer licenses, wine permits, and
7 beer permits, in gross, and the amount of liquor control
8 license fees returned to local subdivisions of government as
9 provided under this chapter.

5584 10 Sec. 27. Section 123.96, subsection 2, Code Supplement
11 1985, is amended to read as follows:

5587 12 2. Except as allowed under section 123.95 and except in
13 the case of a liquor control licensee who also holds a special
14 retailer license, a licensee shall not knowingly keep on the
15 licensed premises nor use for resale purposes any alcoholic
16 liquor on which the special tax has not been paid to the
5568 17 state. The conviction of a violation of this section shall
18 cause the license held to automatically be revoked and the
19 license shall immediately be surrendered by the holder, and
20 the bond of the license holder shall be forfeited to the
21 department.

5710 22 Sec. 28. Section 123.178, subsection 3, Code Supplement
23 1985, is amended to read as follows:

24 3. A person holding a class "B" wine permit may purchase
25 wine for resale only ~~from the department or~~ from a person
26 holding a class "A" wine permit.

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SENATE FILE 2235

H-5568

- 1 Amend Senate File 2235 as amended, passed, and
2 reprinted by the Senate as follows:
- 3 1. Page 2, by inserting after line 16 the
4 following:
- 5 "NEW SUBSECTION. 15. Prescribing the procedure
6 under which a special retailer shall periodically
7 remit to the department any revenue derived from the
8 fifteen percent special tax charged to liquor control
9 licensees on sales of alcoholic liquor conducted by a
10 special retailer."
- 11 2. Page 4, line 6, by inserting after the figure
12 "3." the following: "A special retailer may sell
13 alcoholic liquor to the retail public and liquor
14 control licensees. A special retailer is responsible
15 for the collection of the fifteen percent special tax
16 on sales of alcoholic liquor to liquor control
17 licensees."
- 18 3. Page 4, line 10, by inserting after the word
19 "liquor" the following: "on a fifteen-day invoice
20 basis".
- 21 4. Page 5, line 35, by inserting after the word
22 "department" the words "or special retailers".
- 23 5. Page 6, line 7, by inserting after the word
24 "department" the words "or special retailer".
- 25 6. Page 6, line 22, by inserting after the word
26 "department" the words "or special retailer".
- 27 7. Page 15, line 10, by striking the word
28 "subsection" and inserting the following:
29 "subsections 1 and".
- 30 8. Page 15, line 11, by striking the word "is"
31 and inserting the word "are".
- 32 9. Page 15, by inserting before line 12 the
33 following:
- 34 "1. There is imposed on every person licensed to
35 sell alcoholic beverages for consumption on the
36 premises where sold, a special tax equivalent to
37 fifteen percent of the price established by the
38 department on all alcoholic beverages for general sale
39 to the public. The tax shall be paid by all licensees
40 at the point of purchase from the state or special
41 retailer on all alcoholic beverages intended or used
42 for resale for consumption on the premises of retail
43 establishments. The tax is in lieu of any other sales
44 tax applied at the state store and shall be shown as a
45 separate item on special sales slips provided by the
46 department for purchases by licensees."
- 47 10. Page 15, line 17, by inserting after the word
48 "section" the words "or the failure of a special
49 retailer to collect or remit to the department the
50 special tax imposed under this section".

SENATE FILE 2235

H-5616

1 Amend Senate File 2235 as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 4, by striking lines 3 through 5 and
4 inserting the following: "a class "B" wine permit or
5 a class "C" beer permit or both."
6 2. Page 6, by striking lines 14 through 17 and
7 inserting the following: "application."
8 3. Page 6, by striking lines 27 through 30 and
9 inserting the following: "consumption off the
10 premises."

H-5616 FILED APRIL 1, 1986 BY HALVORSON of Webster

SENATE FILE 2235

H-5617

1 Amend Senate File 2235 as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 12, by inserting after line 11 the
4 following:
5 "Sec. 22. Section 123.49, subsection 2, paragraph
6 "b", Code Supplement 1985, is amended to read as
7 follows:
8 b. Sell or dispense any alcoholic beverage liquor,
9 wine, or beer for consumption on the premises covered
10 by the license or permit, or permit its consumption
11 thereon between the hours of two a.m. and six a.m. on
12 a weekday, and between the hours of two a.m. on Sunday
13 and six a.m. on the following Monday or sell or
14 dispense wine or beer for consumption off the licensed
15 premises between the hours of ten p.m. and six a.m.
16 the next morning on a weekday and between the hours of
17 ten p.m. on Saturday night and six a.m. the following
18 Monday, however, a holder of a liquor control license
19 or retail wine or beer permit granted the privilege of
20 selling alcoholic liquor, wine, or beer on Sunday may
21 sell or dispense alcoholic liquor, wine, or beer for
22 consumption on the licensed premises between the hours
23 of ten a.m. and twelve midnight on Sunday and may
24 sell or dispense wine or beer for consumption off the
25 licensed premises between the hours of ten a.m. and
26 ten p.m.
27 Sec. 23. Section 123.49, subsection 2, paragraph
28 k, Code Supplement 1985, is amended by striking the
29 paragraph."

H-5617 FILED APRIL 1, 1986 BY HALVORSON of Webster

SENATE FILE 2235

H-5710

- 1 Amend Senate File 2235 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. By striking page 2, line 17 through page 3,
- 4 line 3.
- 5 2. By striking page 5, line 31 through page 7,
- 6 line 3.
- 7 3. Page 15, by striking lines 22 through 26.
- 8 4. By renumbering as required.

H-5710 FILED APRIL 4, 1986 BY HALVORSON of Webster

REQ. BY HORN

FISCAL NOTE TO
SENATE FILE 2235

In compliance with a written request received March 4, 1986, a fiscal note for SENATE FILE 2235 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2235 relates to the sale of alcoholic liquor, wine, and beer by allowing special retailers to sell alcoholic liquor in areas which are not adequately served by state liquor stores and by limiting the sale of wine by the Beer and Liquor Control Department to retail. Special retailers may also hold a Class B wine permit or a Class C beer permit. The special retailer is required to buy alcoholic liquor from the Department only.

Assumptions

1. Special retailers as an alternative to the conversion of eighty-five state stores to agency stores (FY-87 Governor's recommendation based on state stores whose operating expenses exceed twenty percent of gross sales). The exact number of stores that might exist under the proposal is unknown.
2. No increase in consumption. Actual consumption that might be realized under the proposal is unknown.
3. Special retailers would set retail price at same price as state stores.
4. Special retailers license fee set at \$100 annually.
5. Current state wine wholesaling activity would be transferred to private wholesalers (\$1.50 gallonage tax).
6. State would continue to retail wine.
7. Forty percent wholesale markup to special retailers.
8. Special retailers are required to purchase alcoholic liquor from the state.
9. Unemployment Cost—Approximately 116 individuals would be affected (87 full-time, 29 part-time). Assume 50% would receive unemployment benefits.
10. Vacation/Sick Leave Pay—Assume full-time positions would receive pay (\$1100 per person).
11. Increased economic activity would result. The exact impact is unknown.
Areas of economic impact:

	<u>State Revenue</u>	<u>Local Revenue</u>
Business Share	Corporate Income Tax Franchise Tax Insurance Premium Sales Tax	Property Tax
Individual Share	Personal Income Tax Sales Tax	Property Tax

12. FY-87 sales estimate based on state stores being phased out by January 1, 1987 (55% of sales at retail, 45% at cost plus 40%).
13. Beer and liquor operational savings reflects direct retail and wholesale costs (50% of savings would be realized in FY-87, 100% realized in FY-88).