

State Book

Senate File 121

STATE GOVERNMENT: Horn, Chair, Welsh and Rife

SENATE FILE 121

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Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act to repeal the private sale of alcoholic liquor for  
2 consumption off the licensed premises and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 121

1 Section 1. Section 123.3, Code 1987, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 36. "State liquor store" means a store  
4 established by the department under this chapter for the sale  
5 of alcoholic liquor and wine in the original package for  
6 consumption off the premises including an agency store or city  
7 liquor store.

8 Sec. 2. Section 123.16, subsection 2, paragraphs a and c,  
9 Code 1987, are amended to read as follows:

10 a. Purchases of alcoholic liquor and wine for resale by  
11 the division.

12 c. The establishment of wholesale retail prices of  
13 alcoholic liquor and wine sold by the division.

14 Sec. 3. Section 123.20, Code 1987, is amended to read as  
15 follows:

16 123.20 POWERS.

17 The administrator, in executing divisional functions, shall  
18 have the following duties and powers:

19 1. To purchase alcoholic liquors and wine for resale by  
20 the division in the manner set forth in this chapter.

21 2. To establish, maintain, or discontinue state liquor  
22 stores and to determine the cities in which such stores shall  
23 be located. However, no liquor store shall be established  
24 within three hundred feet of any public or private education  
25 institution, except that local authorities may by ordinance  
26 reduce such minimum distance.

27 3. To rent, lease, or equip any building or any land  
28 necessary to carry out the provisions of this chapter.

29 4. To lease all plants and lease or buy equipment  
30 necessary to carry out the provisions of this chapter.

31 5. To appoint vendors, clerks, agents, or other  
32 employees required for carrying out the provisions of this  
33 chapter; to dismiss employees for cause; to assign employees  
34 to bureaus as created by the administrator within the  
35 division; and to designate their title, duties, and powers.

1 All employees of the division are subject to chapter 19A  
2 unless exempt under section 19A.3.

3 5 6. To grant and issue beer permits, special permits,  
4 liquor control licenses, and other licenses; and to suspend or  
5 revoke all such permits and licenses for cause under this  
6 chapter.

7 6 7. To license, inspect, and control the manufacture of  
8 beer, wine, and alcoholic liquors and regulate the entire  
9 beer, wine, and liquor industry in the state.

10 7 8. To accept intoxicating liquors ordered delivered to  
11 the alcoholic beverages division pursuant to section ~~127-8~~  
12 809.13, subsection 1 2, and offer ~~for-sale-and-deliver~~ such  
13 ~~intoxicating liquors to class-"E"-liquor-control-licensees and~~  
14 wine for sale through state liquor stores, unless the  
15 administrator determines that such intoxicating liquors and  
16 wine may be adulterated or contaminated. If the administrator  
17 determines that such intoxicating liquors and wine may be  
18 adulterated or contaminated the administrator shall order  
19 their destruction.

20 9. To appoint a designee to conduct a public hearing upon  
21 the establishment or discontinuance of a state liquor store  
22 within the city affected.

23 Sec. 4. Section 123.21, subsections 1, 2, 3, 6, and 8,  
24 Code 1987, are amended to read as follows:

25 1. Prescribing the duties of officers, vendors, clerks,  
26 agents, or other employees of the division and regulating  
27 their conduct while in the discharge of their duties.

28 2. Regulating the management, equipment, and merchandise  
29 of state liquor stores and warehouses in and from which  
30 alcoholic liquors and wine are transported, kept, or sold and  
31 prescribing the books and records to be kept therein.

32 3. Regulating the purchase of alcoholic liquor generally  
33 and the furnishing of the liquor and wine to ~~class-"E"-liquor~~  
34 ~~control-licensees~~ state liquor stores established under this  
35 chapter, and determining the classes, varieties, and brands of

1 alcoholic liquors and wine to be kept in state warehouses or  
2 for sale at any state liquor store.

3 6. Providing for the issuance and distribution of price  
4 lists which show the price to be paid by class-"E"-liquor  
5 control-licensees purchasers for each brand, class, or variety  
6 of liquor kept for sale by the division, providing for the  
7 filing or posting of prices charged in sales between class "A"  
8 beer and class "A" wine permit holders and retailers, as  
9 provided in this chapter, and establishing or controlling the  
10 prices based on minimum standards of fill, quantity, or  
11 alcoholic content for each individual sale of intoxicating  
12 liquor or beer as deemed necessary for retail or consumer  
13 protection. However, the division shall not regulate markups,  
14 prices, discounts, allowances, or other terms of sale ~~at which~~  
15 ~~alcoholic-liquor-may-be-purchased-by-the-retail-public-or~~  
16 ~~liquor-control-licensees-from-class-"E"-liquor-control~~  
17 ~~licensees-or~~ at which wine may be purchased and sold by class  
18 "A" and retail wine permittees, or change, nullify, or vary  
19 the terms of an agreement between a holder of a vintner  
20 certificate of compliance and a class "A" wine permittee.

21 8. Prescribing, subject to this chapter, the days and  
22 hours during which state warehouses liquor stores shall be  
23 kept open for the purpose of the sale ~~and-delivery~~ of  
24 alcoholic liquors and wine.

25 Sec. 5. Section 123.22, unnumbered paragraph 1, Code 1987,  
26 is amended to read as follows:

27 The division has the exclusive right of importation into  
28 the state of all forms of alcoholic liquor, except as  
29 otherwise provided in this chapter, and a person shall not  
30 import alcoholic liquor, except that an individual of legal  
31 age may import and have in the individual's possession an  
32 amount of alcoholic liquor not exceeding one quart or, in the  
33 case of alcoholic liquor personally obtained outside the  
34 United States, one gallon for personal consumption only in a  
35 private home or other private accommodation. No distillery

1 shall sell alcoholic liquor within the state to any person but  
 2 only to the division, except as otherwise provided in this  
 3 chapter. This section vests in the division exclusive control  
 4 within the state both as purchaser and vendor of all alcoholic  
 5 liquor sold by distilleries within the state or imported,  
 6 except beer and wine, and except as otherwise provided in this  
 7 chapter. ~~The division shall act as the sole wholesaler of~~  
 8 ~~alcoholic liquor to class "E" liquor control licensees.~~ The  
 9 division may continue to purchase wine from persons holding a  
 10 vintner's certificate of compliance or a class "A" wine permit  
 11 for resale in state liquor stores.

12 Sec. 6. NEW SECTION. 123.23 STATE LIQUOR STORES.

13 The division shall establish and maintain in any city which  
 14 the administrator deems advisable, a state liquor store or  
 15 stores for storage and sale of alcoholic liquor and wine in  
 16 accordance with this chapter. The division may, from time to  
 17 time, as determined by the administrator, fix the prices of  
 18 the different classes, varieties, or brands of alcoholic  
 19 liquor and wine to be sold. Prior to a decision to establish,  
 20 relocate or discontinue a state liquor store, the  
 21 administrator shall appoint a designee to conduct a public  
 22 hearing on the decision within the city affected.

23 If the division determines that it is not economically  
 24 feasible for the division to operate a state liquor store in a  
 25 locality, the division may contract with an agent to operate  
 26 an agency store to sell alcoholic liquor and wine for  
 27 consumption off the premises on behalf of the division. If  
 28 the division determines that an agency store should be  
 29 established, the division shall first offer the city in which  
 30 the agency store is to be established the option to establish  
 31 and operate a city liquor store to sell alcoholic liquor and  
 32 wine for consumption off the premises on behalf of the  
 33 division. An agency store or city liquor store shall obtain  
 34 its alcoholic liquor and wine from the division only and shall  
 35 sell the alcoholic liquor and wine at prices established by

1 the division. An agency store or city liquor store may sell  
2 alcoholic liquor and wine to licensed retailers. An agency  
3 store or city store is not required to obtain a liquor control  
4 license or wine permit. An agency store or city liquor store  
5 shall submit to the division a financial guarantee payable to  
6 the division in the amount and form determined by the  
7 administrator.

8 Sec. 7. Section 123.24, Code 1987, is amended by striking  
9 the section and inserting in lieu thereof the following:

10 123.24 VENDORS -- DISHONORED CHECKS FROM LICENSEES AND  
11 PERMITTEES.

12 1. "Vendor" means a person involved in the conduct and  
13 management of state liquor stores who is subject to the  
14 directions of the administrator, the provisions of this  
15 chapter, and the rules and regulations of the division.

16 2. a. A vendor may accept from a class "A", "B", "C", or  
17 "D" liquor control licensee or a class "B" wine permittee a  
18 cashier's check which shows the licensee or permittee is the  
19 remitter, or a check issued by the licensee, in payment of  
20 alcoholic liquor purchased for resale. In the event a check  
21 is subsequently dishonored, the vendor shall cause a notice of  
22 nonpayment and penalty to be served upon the licensee or  
23 permittee or upon any person in charge of the licensed  
24 premises. The notice shall state that if payment or  
25 satisfaction for the dishonored check is not made within ten  
26 days of the service of notice, the licensee's liquor control  
27 license or the permittee's wine permit shall be suspended by  
28 the procedures of section 123.39. The notice of nonpayment  
29 and penalty shall be in a form prescribed by the administrator  
30 and shall be served by a peace officer.

31 b. If upon notice and hearing under the procedures  
32 specified in section 123.39 and pursuant to the provisions of  
33 chapter 17A concerning a contested case hearing, the  
34 administrator determines that the licensee or permittee failed  
35 to satisfy the obligation for which the check was issued

1 within ten days after the notice of nonpayment and penalty was  
2 served on the licensee or permittee as provided in paragraph  
3 "a", the administrator shall suspend the licensee's liquor  
4 control license or the permittee's wine permit for not less  
5 than three days but not more than thirty days.

6 c. Paragraphs "a" and "b" do not apply if a licensee or  
7 permittee tenders the division three or more checks during a  
8 twelve-month period which are dishonored. Following  
9 notification to the division of dishonor of any check after  
10 the second check so dishonored, the administrator shall  
11 suspend a licensee's liquor control license or a permittee's  
12 wine permit for not less than three nor more than thirty days,  
13 after notice and an opportunity for hearing. Payment of any  
14 check whose dishonor subjects the licensee or permittee to  
15 suspension does not affect the liability of the licensee or  
16 permittee to suspension.

17 Sec. 8. Section 123.25, Code 1987, is amended to read as  
18 follows:

19 123.25 CONSUMPTION ON PREMISES.

20 An A vendor, officer, clerk, agent, or employee of the  
21 division employed in a state liquor store or state-owned  
22 warehouse shall not allow any alcoholic liquor or wine to be  
23 consumed on the premises, nor shall a person consume any  
24 liquor on the premises except for testing or sampling purposes  
25 only.

26 Sec. 9. Section 123.26, Code 1987, is amended to read as  
27 follows:

28 123.26 RESTRICTIONS ON SALES --SEALS -- LABELING.

29 Alcoholic liquor shall not be sold by the division to a  
30 ~~class-"E"-liquor-control-licensee~~ purchaser except in a sealed  
31 container with identifying markers as prescribed by the  
32 administrator and affixed on the premises of a state warehouse  
33 or store and no such container shall be opened upon the  
34 premises of a state warehouse or store. Possession of  
35 alcoholic liquors which do not carry the prescribed

1 identifying markers is a violation of this chapter except as  
2 provided in section 123.22.

3 Sec. 10. Section 123.27, unnumbered paragraph 1, Code  
4 1987, is amended to read as follows:

5 It is unlawful to transact the sale or delivery of  
6 alcoholic liquor or wine in, on, or from the premises of a  
7 state liquor store or warehouse:

8 Sec. 11. Section 123.28, unnumbered paragraph 1, Code  
9 1987, is amended to read as follows:

10 It is lawful to transport, carry, or convey alcoholic  
11 liquors from the place of purchase by the division to a state  
12 warehouse, store, or depot established by the division or from  
13 one such place to another and, when so permitted by this  
14 chapter, it is lawful for the division, a common carrier, or  
15 other person to transport, carry, or convey alcoholic liquor  
16 sold by a vendor from a state warehouse, store, depot, or  
17 point of purchase by the state to any place to which the  
18 liquor may be lawfully delivered under this chapter. The  
19 ~~division shall deliver alcoholic liquor purchased by class "E"~~  
20 ~~liquor control licensees. Class "E" liquor control licensees~~  
21 ~~may deliver alcoholic liquor purchased by class "A", "B", or~~  
22 ~~"E" liquor control licensees, and class "A", "B", or "E"~~  
23 ~~liquor control licensees may transport alcoholic liquor~~  
24 ~~purchased from class "E" liquor control licensees.~~

25 Notwithstanding section 321.230, sections 321.225 and 321.226  
26 do not apply to division employees in the regular course of  
27 their employment. A common carrier or other person shall not  
28 break or open or allow to be broken or opened a container or  
29 package containing alcoholic liquor or use or drink or allow  
30 to be used or drunk any alcoholic liquor while it is being  
31 transported or conveyed, but this section does not prohibit a  
32 private person from transporting individual bottles or  
33 containers of alcoholic liquor exempted pursuant to section  
34 123.22 and individual bottles or containers bearing the  
35 identifying mark prescribed in section 123.26 which have been



1 opened previous to the commencement of the transportation.  
2 This section does not affect the right of a special permit or  
3 liquor control license holder to purchase, possess, or  
4 transport alcoholic liquors subject to this chapter.

5 Sec. 12. Section 123.29, subsections 1 and 2, Code 1987,  
6 are amended to read as follows:

7 1. To a physician, pharmacist, dentist, or veterinarian,  
8 entitling the holder to purchase and import alcohol from  
9 distillers and wholesalers or from the ~~division-or-a-class-"E"~~  
10 ~~liquor-control-licensee~~ state liquor stores for use  
11 medicinally and in compounding prescriptions and to sell the  
12 alcohol for use medicinally in the compounded prescription  
13 only upon the prescription of a licensed physician or surgeon,  
14 or to use the alcohol in manufacturing or compounding lotions,  
15 compounds, and like commodities not susceptible for beverage  
16 purposes, and to sell the commodities for public use.

17 2. To a veterans home, sanitarium, hospital, college, or  
18 home for the aged which will entitle the holder to purchase  
19 and import alcohol from distillers and wholesalers or from the  
20 ~~division-or-a-class-"E"-liquor-control-licensee~~ state liquor  
21 stores for use for medicinal, laboratory, and scientific  
22 purposes only.

23 Sec. 13. Section 123.29, unnumbered paragraph 5, Code  
24 1987, is amended to read as follows:

25 Every person holding a special liquor permit under this  
26 chapter shall fill out in duplicate, on forms furnished by the  
27 division, the amount and kinds of liquors purchased, and shall  
28 retain one copy in the person's establishment for a period of  
29 two years. The ~~class-"E"-liquor-control-licensee-from-whom~~  
30 vendor of the state liquor store at which the purchase was  
31 made shall monthly forward the other copy to the division.

32 Sec. 14. Section 123.30, subsection 3, paragraphs a, b,  
33 and c, Code 1987, are amended to read as follows:

34 a. Class "A". A class "A" liquor control license may be  
35 issued to a club and shall authorize the holder to purchase

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

7     b. Class "B". A class "B" liquor control license may be  
8 issued to a hotel or motel and shall authorize the holder to  
9 purchase alcoholic liquors from ~~class-"E"-liquor-control~~  
10 ~~licensees~~ the division only, wine from the division or class  
11 "A" wine permittees only, and native wines from native wine  
12 manufacturers, and to sell liquors, wine, and beer, to patrons  
13 by the individual drink for consumption on the premises only.  
14 However, beer may also be sold for consumption off the  
15 premises. Each license shall be effective throughout the  
16 premises described in the application.

17     c. Class "C". A class "C" liquor control license may be  
18 issued to a commercial establishment but must be issued in the  
19 name of the individuals who actually own the entire business  
20 and shall authorize the holder to purchase alcoholic liquors  
21 from ~~class-"E"-liquor-control-licensees~~ the division only,  
22 wine from the division or class "A" wine permittees only, and  
23 native wines from native wine manufacturers, and to sell  
24 liquors, wine, and beer, to patrons by the individual drink  
25 for consumption on the premises only. However, beer may also  
26 be sold for consumption off the premises.

27     A special class "C" liquor control license may be issued  
28 and shall authorize the holder to purchase wine from the  
29 division or class "A" wine permittees only, and to sell wine  
30 and beer to patrons by the individual drink for consumption on  
31 the premises only. However, beer may also be sold for  
32 consumption off the premises. The license issued to holders  
33 of a special class "C" license shall clearly state on its face  
34 that the license is limited.

35     Sec. 15. Section 123.30, subsection 3, paragraph e, Code

1 1987, is amended by striking the paragraph.

2 Sec. 16. Section 123.32, subsection 1, Code 1987, is  
3 amended to read as follows:

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

19 Sec. 17. Section 123.36, subsections 9 and 10, Code 1987,  
20 are amended by striking the subsections.

21 Sec. 18. NEW SECTION. 123.48 EVIDENCE OF LEGAL AGE  
22 DEMANDED.

23 1. Upon an attempt to purchase alcoholic liquor in a state  
24 liquor store by a person who appears to the vendor to be under  
25 legal age, the vendor shall demand and the prospective  
26 purchaser upon demand shall display satisfactory evidence that  
27 the prospective purchaser is of legal age.

28 2. A person under legal age who presents to a vendor  
29 falsified evidence of age as provided in subsection 1 of this  
30 section is, upon conviction, guilty of a simple misdemeanor.

31 Sec. 19. Section 123.50, Code 1987, is amended by adding  
32 the following new subsection:

33 NEW SUBSECTION. 5. Upon the conviction of a person acting  
34 as a vendor, as defined in section 123.24, subsection 1, for a  
35 violation of section 123.47 while in the course of the

1 person's employment at the state liquor store, the  
2 administrator shall dismiss the person from the position as  
3 vendor if the person has failed to follow procedures developed  
4 by the administrator to prevent sales to minors.

5 Sec. 20. Section 123.51, Code 1987, is amended by striking  
6 the section and inserting in lieu thereof the following:

7 123.51 ADVERTISEMENTS FOR ALCOHOLIC LIQUOR, WINE, OR BEER.

8 1. Except as permitted by federal statute and regulations,  
9 public advertisement or advertising of alcoholic liquors is  
10 not permitted in any manner or form within the state.

11 2. A person shall not publish, exhibit, or display or  
12 permit to be displayed any other advertisement or form of  
13 advertisement, or announcement, publication, or price list of,  
14 or concerning any alcoholic liquors, or where, or from whom  
15 the same may be purchased or obtained, unless permitted to do  
16 so by the regulations adopted by the division and then only in  
17 strict accordance with such regulations. This subsection  
18 shall not apply, however:

19 a. To the division.

20 b. To the correspondence, or telegrams, or general  
21 communications of the division, or its agents, servants, and  
22 employees.

23 c. To the receipt or transmission of a telegram or  
24 telegraphic copy in the ordinary course of the business of  
25 agents, servants, or employees of any telegraph company.

26 3. No signs or other matter advertising any brand of beer  
27 or wine shall be erected or placed upon the outside of any  
28 premises occupied by a licensee or permittee authorized to  
29 sell beer or wine at retail. This subsection does not  
30 prohibit the use of signs or other matter inside a fence or  
31 similar enclosure which wholly or partially surrounds the  
32 licensed premises.

33 4. Violation of this section is a simple misdemeanor.

34 Sec. 21. Section 123.55, Code 1987, is amended by adding  
35 the following new subsections after subsection 1 and

1 renumbering the subsequent subsections:

2 NEW SUBSECTION. 2. Number of state liquor stores opened,  
3 the number closed, and the number operating on last day  
4 included in report.

5 NEW SUBSECTION. 3. Amount of fees received from such  
6 stores, separately and in gross.

7 Sec. 22. Section 123.57, Code 1987, is amended to read as  
8 follows:

9 123.57 EXAMINATION OF ACCOUNTS.

10 The financial condition and transactions of all offices,  
11 departments, stores, warehouses, and depots of the division  
12 shall be examined at least once each year by the state auditor  
13 and at shorter periods if requested by the administrator,  
14 governor, or executive council.

15 Sec. 23. Section 123.58, Code 1987, is amended to read as  
16 follows:

17 123.58 AUDITING.

18 All provisions of sections 11.6, 11.7, 11.10, 11.11, 11.14,  
19 11.18, 11.21, and 11.23, relating to auditing of financial  
20 records of governmental subdivisions which are not  
21 inconsistent with this chapter are applicable to the division  
22 and its offices, stores, warehouses, and depots.

23 Sec. 24. Section 123.178, subsection 3, Code 1987, is  
24 amended to read as follows:

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

28 Sec. 25. 1986 Iowa Acts, chapter 1246, sections 755, 756,  
29 757, 758, 759, 760, and 761, are repealed.

30 EXPLANATION

31 This bill reverses the changes made in 1986 Iowa Acts,  
32 chapter 1246 (House File 2484) to restore the system of state  
33 liquor stores and the sale of alcoholic beverages as it  
34 existed prior to July 1, 1986.

35 The bill preserves the increase in the wine gallonage tax

1 and the barrel tax on beer that was contained in House File  
2 2484 and maintains the repeal of the special fifteen percent  
3 tax on sales of alcoholic liquor and wine to licensees when  
4 intended for use for resale for consumption on the premises.

5 The bill also provides for the establishment of agency  
6 stores by the division when it is determined to be  
7 economically unfeasible to establish a state liquor store to  
8 be operated by the division. When such a decision is made the  
9 division will first offer the city where the agency store is  
10 to be established the option to establish and operate a city  
11 liquor store. An agency store or city liquor store is not  
12 required to obtain a license or permit, but shall sell  
13 alcoholic liquor and wine on behalf of the division in the  
14 manner of state liquor stores operated by the division.

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