

Sec. 9. Section 422.34, subsection 2, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An organization that would have qualified as an organization exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code but for the fact that the requirement that substantially all of the members who are not past or present members of the United States armed forces is not met because such members include ancestors or lineal descendants, shall be considered for purposes of the exemption from taxation under this division as an organization exempt from federal income tax under section 501(c)(19) of the Internal Revenue Code.

Sec. 10. STATE FUNDING. The military service tax exemptions and credits provided pursuant to the amendment to section 35.1 of this Act shall be funded pursuant to chapter 426A and section 25B.7, subsection 2.

Sec. 11. EFFECTIVE AND APPLICABILITY DATES.

1. Except as provided in subsections 2, 3, 4, 5, and 6, this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003, for tax years beginning on or after that date.

2. Section 3 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2003.

3. Section 4 of this Act amending section 35.1, being deemed of immediate importance, takes effect upon enactment.

4. Section 6 of this Act, amending section 422.7 to allow for the subtraction of additional death gratuity benefits, being deemed of immediate importance, takes effect upon enactment and applies retroactively to tax years ending after September 10, 2001.

5. Section 8 of this Act, amending section 422.21, being deemed of immediate importance, takes effect upon enactment and applies to any period for performing an act that has not expired before the effective date.

6. Section 9 of this Act, amending section 422.34, being deemed of immediate importance, takes effect upon enactment and applies to tax years beginning after the effective date.

Approved May 21, 2003

CHAPTER 143

WINE AND BEER MANUFACTURING, SALE, AND DISTRIBUTION

H.F. 682

AN ACT relating to wine by providing for native wine permits, providing wine gallonage tax revenue to support grape and wine development, providing for fees, and providing an effective date and retroactive applicability.

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

Section 1. Section 123.3, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 22A. "Native wine" means wine manufactured in this state.

Sec. 2. Section 123.3, subsection 30, Code 2003, is amended to read as follows:

30. "Retail wine permit" means a class "B" wine permit, class "B" native wine permit, or class "C" native wine permit issued under this chapter.

Sec. 3. Section 123.32, subsection 1, Code 2003, is amended to read as follows:

1. FILING OF APPLICATION. An application for a class "A", class "B", class "C", or class "E" liquor control license, for a retail beer permit as provided in sections 123.128 and 123.129, or for a class "B", class "B" native, or class "C" native retail wine permit as provided in section ~~123.176~~ 123.178, 123.178A, or 123.178B, accompanied by the necessary fee and bond, if required, shall be filed with the appropriate city council if the premises for which the license or permit is sought are located within the corporate limits of a city, or with the board of supervisors if the premises for which the license or permit is sought are located outside the corporate limits of a city. An application for a class "D" liquor control license and for a class "A" beer or class "A" wine permit, accompanied by the necessary fee and bond, if required, shall be filed with the division, which shall proceed in the same manner as in the case of an application approved by local authorities.

Sec. 4. Section 123.56, subsection 1, Code 2003, is amended to read as follows:

1. Subject to rules of the division, manufacturers of native wines from grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, holding a class "A" wine permit as required by this chapter, may sell, keep, or offer for sale and deliver the wine. Sales may be made at retail for off-premises consumption when sold on the premises of the manufacturer, or in a retail establishment operated by the manufacturer ~~which is no closer than five miles from an existing native winery~~. Sales may also be made to class "A" or retail wine permittees or liquor control licensees as authorized by the class "A" wine permit.

Sec. 5. Section 123.56, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding any other provision of this chapter, a person engaged in the business of manufacturing native wine may sell native wine at retail for consumption on the premises of the manufacturing facility by applying for a class "C" native wine permit as provided in section 123.178B. A manufacturer of native wine may be granted not more than one class "C" native wine permit.

Sec. 6. Section 123.127, subsection 1, paragraph c, Code 2003, is amended by striking the paragraph and inserting in lieu thereof the following:

c. That the applicant is a person of good moral character as defined by this chapter.

Sec. 7. Section 123.173, Code 2003, is amended to read as follows:

123.173 WINE PERMITS — CLASSES — AUTHORITY.

Permits exclusively for the sale or manufacture and sale of wine shall be divided into ~~two~~ four classes, and shall be known as class "A", ~~or "B", "B" native, or "C" native~~ wine permits.

A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine as defined in section 123.3, subsection 37. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight for shipment outside this state. All class "A" premises shall be located within the state. A class "B" or class "B" native wine permit allows the holder to sell wine at retail for consumption off the premises. A class "B" or class "B" native wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", and class "C" liquor control licensees for resale for consumption on the premises. ~~A class "B" wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", and class "C" liquor control licensees~~ Such wine sales shall be in quantities of less than one case of any wine brand but not more than one such sale shall be made to the same liquor control licensee in a twenty-four hour period. A class "B" or class "B" native wine permittee shall not sell wine to other class

“B”, or class “B” native wine permittees. A class “C” native wine permit allows the holder to sell wine for consumption on or off the premises.

A class “A” wine permittee shall be required to deliver wine to a class “B” retail wine permittee, and a class “B” retail wine permittee shall be required to accept delivery of wine from a class “A” wine permittee, only at the licensed premises of the class “B” retail wine permittee. Except as specifically permitted by the division upon good cause shown, delivery or transfer of wine from an unlicensed premises to a licensed “B” retail wine permittee’s premises, or from one licensed “B” retail wine permittee’s premises to another licensed “B” retail wine permittee’s premises, even if there is common ownership of all of the premises by one class “B” retail permittee, is prohibited. A class “B” or class “B” native wine permittee who also holds a class “E” liquor control license shall keep and maintain records for each sale of wine to liquor control licensees showing the name of the establishment to which wine was sold, the date of sale, and the brands and number of bottles sold to the liquor control licensee.

When a class “B” or class “B” native wine permittee who also holds a class “E” liquor control license sells wine to a class “A”, class “B”, or class “C” liquor control licensee, the liquor control licensee shall sign a report attesting to the purchase. The class “B” or class “B” native wine permittee who also holds a class “E” liquor control license shall submit to the division, on forms supplied by the division, not later than the tenth of each month a report stating each sale of wine to class “A”, class “B”, and class “C” liquor control licensees during the preceding month, the date of each sale, and the brands and numbers of bottles with each sale. A class “B” permittee who holds a class “E” liquor control license may sell to class “A”, class “B”, or class “C” liquor control licensees only if the licensed premises of the liquor control licensee is located within the geographic territory of the class “A” wine permittee from which the wine was originally purchased by the class “B” wine permittee.

Sec. 8. Section 123.174, Code 2003, is amended to read as follows:

123.174 ISSUANCE OF WINE PERMITS.

The administrator shall issue class “A” and “B” wine permits as provided in this chapter, and may suspend or revoke a wine permit for cause as provided in this chapter.

Sec. 9. Section 123.175, Code 2003, is amended to read as follows:

123.175 CLASS “A” APPLICATION CONTENTS.

Except as otherwise provided in this chapter, a class “A” or retail wine permit shall be issued to a person who complies with all of the following:

1. Submits a written application for the permit and states on the application under oath:
 - a. The name and place of residence of the applicant and the length of time the applicant has lived at the place of residence.
 - b. That the applicant is a citizen of the state of Iowa, or if a corporation, that the applicant is authorized to do business in Iowa.
 - c. ~~The place of birth of the applicant, and if the applicant is a naturalized citizen, the time and place of naturalization, or if a corporation, the state of incorporation. That the applicant is a person of good moral character as defined by this chapter.~~
 - d. The location of the premises where the applicant intends to use the permit.
 - e. The name of the owner of the premises, and if that owner is not the applicant, that the applicant is the actual lessee of the premises.
2. Establishes all of the following:
 - a. That the applicant meets the test of good moral character as provided in section 123.3, subsection 26.
 - b. That the premises where the applicant intends to use the permit conform to all applicable laws, health regulations, and fire regulations, and constitute a safe and proper place or building.
3. Submits, ~~in the case of a class “A” wine permit,~~ a bond in the amount of five thousand dollars in the form prescribed and furnished by the division with good and sufficient sureties to be approved by the division conditioned upon compliance with this chapter.

4. Consents to inspection as required in section 123.30, subsection 1.

Sec. 10. Section 123.177, subsection 1, Code 2003, is amended to read as follows:

1. A person holding a class "A" wine permit may manufacture and sell, or sell at wholesale, wine for consumption off the premises. Sales within the state may be made only to persons holding a class "A" or "B" wine permit and to persons holding a class "A", "B", "C" or "D" retail liquor control license. However, if the person holding the class "A" permit is a manufacturer of native wine, the person may sell only native wine to a person holding a retail wine permit or a retail liquor control license. A class "A" wine permittee having more than one place of business shall obtain a separate permit for each place of business where wine is to be stored, warehoused, or sold.

Sec. 11. NEW SECTION. 123.178A AUTHORITY UNDER CLASS "B" NATIVE PERMIT.

1. A person holding a class "B" native wine permit may sell native wine only at retail for consumption off the premises. Native wine shall be sold for consumption off the premises in original containers only.

2. A class "B" native wine permittee having more than one place of business where wine is sold shall obtain a separate permit for each place of business.

3. A person holding a class "B" native wine permit may purchase wine for resale only from a native winery holding a class "A" wine permit.

Sec. 12. NEW SECTION. 123.178B AUTHORITY UNDER CLASS "C" NATIVE PERMIT.

1. A person holding a class "C" native wine permit may sell native wine only at retail for consumption on or off the premises.

2. A class "C" native wine permittee having more than one place of business where wine is sold and served shall obtain a separate permit for each place of business.

3. A person holding a class "C" native wine permit may purchase wine for resale only from a native winery holding a class "A" wine permit.

Sec. 13. Section 123.179, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 3. The annual permit fee for a class "B" native wine permit is twenty-five dollars.

NEW SUBSECTION. 4. The annual permit fee for a class "C" native wine permit is twenty-five dollars.

Sec. 14. Section 123.183, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. The revenue ~~actually~~ collected during each fiscal year from the wine gallonage tax on wine imported into this state at wholesale and sold in this state at wholesale that is in excess of the revenue ~~estimated to be collected from such tax as last agreed to by the state revenue estimating conference~~ during the previous fiscal year as provided in section 8.22A shall be deposited in the grape and wine development fund as created in section 175A.5. However, not more than seventy-five thousand dollars from such tax shall be deposited into the grape and wine development fund during any fiscal year.

Sec. 15. Section 123.176, Code 2003, is repealed.

Sec. 16. LEGISLATION TO BE SUBMITTED. The alcoholic beverages division of the department of commerce shall submit proposed legislation during the 2004 Regular Session of the Eightieth General Assembly which shall make additional conforming changes to chapter 123, and any other impacted provisions of the Code of Iowa, to fully implement the provisions of this Act.

Sec. 17. EFFECTIVE AND APPLICABILITY DATES.

1. This Act, being deemed of immediate importance, takes effect upon enactment.

2. The section of this Act amending section 123.183 and relating to the deposit of revenue

collected from the wine gallonage tax in the grape and wine development fund is retroactively applicable to July 1, 2002. The revenue collected during the fiscal year beginning on July 1, 2002, and ending on June 30, 2003, from the wine gallonage tax on wine imported into this state at wholesale and sold in this state at wholesale as provided in section 123.183 that is in excess of the revenue collected from such tax during the fiscal year beginning July 1, 2001, and ending on June 30, 2002, shall be deposited in the grape and wine development fund as created in section 175.5.¹ However, not more than seventy-five thousand dollars from such tax shall be deposited into the fund.

Approved May 21, 2003

CHAPTER 144

JURISDICTION AND FUNDING OF STREETS AND ROADS

S.F. 451

AN ACT providing for the jurisdiction and funding of roads by transferring funding for and jurisdiction of certain primary and farm-to-market roads, modifying the procedure for classification of area service “C” roads, and establishing a street construction fund distribution advisory committee, and making appropriations.

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

Section 1. Section 306.3, subsection 5, Code 2003, is amended to read as follows:

5. “Municipal street system” means those streets within municipalities that are not primary roads or secondary roads.

Sec. 2. Section 306.4, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. Effective July 1, 2004, jurisdiction and control over a farm-to-market extension or road transferred pursuant to section 306.8A within a city with a population of less than five hundred shall be vested in the county board of supervisors of the respective county.

b. If the population of a city drops below five hundred after July 1, 2004, as determined by the latest available federal census or special census, jurisdiction and control over a farm-to-market extension located within the city shall be vested in the county board of supervisors of the respective county effective July 1 following census certification by the secretary of state.

c. If the population of a city from which jurisdiction and control over a road has been transferred pursuant to paragraph “a” or “b” exceeds seven hundred fifty, as determined by the latest available federal census or special census, such jurisdiction and control shall be transferred back to the city effective July 1 following census certification by the secretary of state.

Sec. 3. **NEW SECTION.** 306.8A TRANSFER OF ROADS IDENTIFIED IN REPORT.

1. The department shall maintain on file the transfer of jurisdiction report compiled by the ad hoc road use tax fund committee. Such report identifies primary roads for transfer to local jurisdictions.

2. The jurisdiction and control of only those primary roads identified in the transfer of jurisdiction report that are also classified by the department as local service roads shall be transferred from the state to the appropriate county or city effective July 1, 2003. Such transfers are not subject to the terms and conditions provided in section 306.8.

¹ Section “175A.5” probably intended