

CHAPTER 22**ALCOHOLIC BEVERAGES AND TREATMENT OF ALCOHOLICS***S.F. 298*

AN ACT relating to the sale of alcoholic beverages, by allowing the alcoholic beverages division to assess a split-case charge when alcoholic liquor is sold in quantities which require a case to be split, by lowering the maximum markup on liquor sold by the division to class "E" licensees from sixty to fifty percent, by allowing identifying markers to be affixed on containers of alcoholic liquor in the manner prescribed by the division, by setting the bond for a class "E" license at a maximum of fifteen thousand dollars, by not requiring a bond from class "E" licensees who purchase alcoholic liquor from the division on a cash basis or by means that ensures that the division will receive full payment in advance of delivery, by providing for the issuance of a class "E" liquor control license to a city council in certain circumstances, by allowing the division to deposit all the license fees collected from class "E" licensees in the beer and liquor control fund, by allowing the advertisement of alcoholic liquor for sale, by repealing the fifty percent goods and services test to qualify for Sunday sales of alcoholic beverages or beer under a liquor control license or class "B" beer permit, by providing that a corporation only placing alcoholic liquor in bailment with the division is not doing business in Iowa for the purpose of determining its tax liability and making the provision retroactive, by requiring class "E" licensees to collect and refund the beverage container deposit on containers of alcoholic liquor, by striking a standing appropriation for the treatment of alcoholics, by allowing the division to sell liquor inventories in state stores to class "E" licensees at reduced prices as state stores are closed, and by allowing the division to continue sales of wine to class "A" and "B" wine permittees until inventories are depleted, by providing an appropriation to the department of health for the treatment of alcoholics from funds collected by the division for the deposit on containers of alcoholic liquor which are not disbursed in the payment of the refund, and providing an effective date.

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

Section 1. Section 123.24, subsection 1, Code 1987, is amended to read as follows:

1. The division shall sell alcoholic liquor at wholesale only. The division shall sell alcoholic liquor to class "E" liquor control licensees only. The division shall offer the same price on alcoholic liquor to all class "E" liquor control licensees without regard for the quantity of purchase or the distance for delivery. However, the division may assess a split-case charge when liquor is sold in quantities which require a case to be split.

Sec. 2. Section 123.24, subsection 3, Code 1987, is amended to read as follows:

3. The price of alcoholic liquor sold by the division shall include a markup of up to sixty fifty percent of the wholesale price paid by the division for the alcoholic liquor. The markup shall apply to all alcoholic liquor sold by the division; however, the division may increase the markup on selected kinds of alcoholic liquor sold by the division if the average return to the division on all sales of alcoholic liquor does not exceed the wholesale price paid by the division and the sixty fifty percent markup.

Sec. 3. Section 123.26, Code 1987, is amended to read as follows:

123.26 RESTRICTIONS ON SALES — SEALS — LABELING.

Alcoholic liquor shall not be sold by ~~the division to~~ a class "E" liquor control licensee except in a sealed container with identifying markers as prescribed by the administrator and affixed ~~on the premises of a state warehouse in the manner prescribed by the administrator~~, and no such container shall be opened upon the premises of a state warehouse. The division shall cooperate with the department of natural resources so that only one identifying marker or mark is needed to satisfy the requirements of this section and section 455C.5, subsection

1. Possession of alcoholic liquors which do not carry the prescribed identifying markers is a violation of this chapter except as provided in section 123.22.

Sec. 4. Section 123.30, subsection 1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

Upon posting bond in the penal required sum of five thousand dollars with surety and conditions prescribed by the administrator, which bond shall be conditioned upon the payment of all taxes payable to the state under the provisions of this chapter and compliance with all provisions of this chapter, a liquor control license may be issued to any person who, or whose officers, in the case of a club or corporation, or whose partners, in the case of a partnership, is of good moral character as defined by this chapter. The bond for a class "E" liquor control license shall be a sum of not less than five thousand nor more than fifteen thousand dollars as determined on a sliding scale established by the division; however, a bond shall not be required if all purchases of alcoholic liquor from the division by the licensee are made by cash payment or by means that ensures that the division will receive full payment in advance of delivery of the alcoholic liquor. The bond for all other liquor control licenses issued under this chapter shall be a sum of five thousand dollars.

Sec. 5. Section 123.30, subsection 1, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A class "E" liquor control license may be issued to a city council for premises located within the limits of the city if there are no class "E" liquor control licensees operating within the limits of the city and no other applications for a class "E" license for premises located within the limits of the city at the time the city council's application is filed. If a class "E" liquor control license is subsequently issued to a private person for premises located within the limits of the city, the city council shall surrender its license to the division within one year of the date that the class "E" liquor control licensee begins operating, liquidate any remaining assets connected with the liquor store, and cease operating the liquor store.

Sec. 6. Section 123.30, subsection 3, paragraph e, Code 1987, is amended to read as follows:

e. Class "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

Sec. 7. Section 123.36, subsection 6, Code 1987, is amended to read as follows:

6. Any club, hotel, motel, or commercial establishment holding a liquor control license ~~for whom the sale of goods and services other than alcoholic liquor, wine, or beer constitutes fifty percent or more of the gross receipts from the licensed premises~~, subject to section 123.49, subsection 2, paragraph "b", may apply for and receive permission to sell and dispense alcoholic liquor and wine to patrons on Sunday for consumption on the premises only, and beer for consumption on or off the premises between the hours of ten a.m. and twelve midnight on Sunday. For the privilege of selling beer, wine, and alcoholic liquor on the premises on Sunday the liquor control license fee of the applicant shall be increased by twenty percent of the regular fee prescribed for the license pursuant to this section, and the privilege shall be noted on the liquor control license. The division shall prescribe the nature and the character of the evidence required of the applicant under this subsection.

Sec. 8. Section 123.36, subsection 8, Code 1987, is amended to read as follows:

8. The division shall credit all fees to the beer and liquor control fund. The division shall remit to the appropriate local authority, a sum equal to sixty-five percent of the fees collected for each class "A", class "B", or class "C" license except special class "C" licenses or class "E" licenses, covering premises located within the local authority's jurisdiction. The division shall remit to the appropriate local authority a sum equal to seventy-five percent of the fees collected for each special class "C" license covering premises located within the local authority's jurisdiction. Those fees collected for the privilege authorized under subsection 6 and those fees collected for each class "E" liquor control license shall be credited to the beer and liquor control fund.

Sec. 9. Section 123.51, subsection 2, Code 1987, is amended by striking the subsection.

Sec. 10. Section 123.134, subsection 5, Code 1987, is amended to read as follows:

5. Any club, hotel, motel, or commercial establishment holding a class "B" beer permit ~~for whom the sale of goods and services other than beer constitutes fifty percent or more of the gross receipts from the licensed premises~~, subject to the provisions of section 123.49, subsection 2, paragraph "b", may apply for and receive permission to sell and dispense beer to patrons on Sunday for consumption on the premises and for consumption of beer or off the premises between the hours of ten a.m. and twelve midnight on Sunday. Any class "C" beer permittee may sell beer for consumption off the premises between the hours of ten a.m. and twelve midnight on Sunday. For the privilege of selling beer on Sunday the beer permit fees of the applicant shall be increased by twenty percent of the regular fees prescribed for the permit pursuant to this section and the privilege shall be noted on the beer permit. The division shall prescribe the nature and character of the evidence which shall be required of the applicant under this subsection.

Sec. 11. Section 422.33, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For the purpose of this section, a corporation whose sole activity in Iowa is placing liquor in bailment pursuant to section 603 of chapter 1246, 1986 Iowa Acts, is not doing business in this state.

Sec. 12. Section 455C.1, subsection 5, Code 1987, is amended to read as follows:

5. "Distributor" means any person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in such sales. The alcoholic beverages division of the department of commerce is not a distributor for the purpose of this chapter.

Sec. 13. Section 455C.2, subsection 1, Code 1987, is amended to read as follows:

1. Except purchases of alcoholic liquor as defined in section 123.3, subsection 8, by holders of class "A", "B", ~~and "C", and "E"~~ liquor control licenses, a refund value of not less than five cents shall be paid by the consumer on each beverage container sold in this state by a dealer for consumption off the premises. Upon return of the empty beverage container upon which a refund value has been paid to the dealer or person operating a redemption center and acceptance of the empty beverage container by the dealer or person operating a redemption center, the dealer or person operating a redemption center shall return the amount of the refund value to the consumer.

Sec. 14. Section 455C.4, subsection 3, Code 1987, is amended to read as follows:

3. A dealer, ~~other than a state liquor store~~, or a distributor may not refuse to accept and to pay the refund value of an empty wine container which is marked to indicate that it was sold by a state liquor store. ~~A state liquor store may refuse to accept and to pay the refund value of an empty wine container which is not marked to indicate that it was sold by a state liquor store.~~

Sec. 15. Section 455C.4, Code 1987, is amended by adding the following new subsection: NEW SUBSECTION. 4. A class "E" liquor control licensee may refuse to accept and to pay the refund value on an empty alcoholic liquor container from a dealer or a redemption center or from a person acting on behalf of or who has received empty alcoholic liquor containers from a dealer or a redemption center.

Sec. 16. Section 455C.5, subsection 1, Code 1987, is amended to read as follows:

1. Each beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing or by a stamp, label or other method securely affixed to the container, the refund value of the container. The department shall specify, by rule, the minimum size of the refund value indication on the beverage containers. ~~Each beverage container containing wine which is sold or offered for sale in a state liquor store shall also be marked by embossing or by stamp, label, or other method securely affixed to the container to indicate that it was sold in a state liquor store.~~

Sec. 17. Section 455C.11, Code 1987, is repealed.

Sec. 18. The division may sell liquor inventories in state stores to class "E" liquor control licensees at reduced prices as state liquor stores are closed during the period from March 1, 1987 through June 30, 1987. The division may sell wine in state liquor stores and state warehouses to class "A" and "B" wine permittees until such time as all wine inventories are depleted.

Sec. 19. There is appropriated for the fiscal year commencing July 1, 1987 and ending June 30, 1988, from the beer and liquor control fund to the Iowa department of public health a sum equal to the difference between the funds collected from the deposit required on beverage containers containing alcoholic liquor and the funds dispersed in the payment of the refund value on such containers. The Iowa department of public health shall use the appropriated funds only for the care, maintenance, and treatment of alcoholics under chapter 125. Notwithstanding sections 8.33 and 123.53, those funds collected in the beer and liquor control fund for the fiscal year beginning July 1, 1986 and ending June 30, 1987 which represent the difference between the funds collected from the deposit on beverage containers containing alcoholic liquor and the funds dispersed in payment of the refund value on such containers shall not revert to the general fund or be used for a purpose other than that provided in this section.

Sec. 20. Section 11 of this Act is retroactive to July 1, 1986, and is repealed effective January 1, 1989.

Sec. 21. This Act, being deemed of immediate importance, takes effect upon its enactment.

Approved April 21, 1987