

CHAPTER 123

ALCOHOLIC BEVERAGE CONTROL

Referred to in §99B.2, 99B.6, 99B.10, 99B.10B, 99B.14, 125.2, 137F.1, 232C.4, 523H.1, 537A.10, 546.9, 714.16

	DIVISION 1	123.36	Liquor fees — Sunday sales.
	GENERAL PROVISIONS RELATING TO ALCOHOLIC BEVERAGES	123.37	Exclusive power to license and levy taxes — disputed taxes.
123.1	Public policy declared.	123.38	Nature of permit or license — surrender — transfer.
123.2	General prohibition.	123.39	Suspension or revocation of license or permit — civil penalty.
123.3	Definitions.		Effect of revocation.
123.4	Alcoholic beverages division created.	123.40	Manufacturer's license.
123.5	Alcoholic beverages commission created.	123.41	Broker's permit.
123.6	Appointment — term — expenses — compensation.	123.42	License conditions — bond.
123.7	Vacancies.	123.43	Repealed by 2011 Acts, ch 30, §10.
123.8	Surety bonds. Repealed by 2013 Acts, ch 35, §23.	123.43A	Micro-distilled spirits — permit.
123.9	Commission meetings.	123.44	Gift of liquors prohibited.
123.10	Administrator appointed — duties.	123.45	Limitations on business interests.
123.11	Expenses.	123.46	Consumption or intoxication in public places — notifications — chemical tests — exoneration.
123.12	Removal.	123.46A	Delivery of alcoholic beverages by retailers.
123.13	Exemption from suit.		Persons under eighteen years of age, persons eighteen, nineteen, or twenty years of age, and persons twenty-one years of age and older.
123.14	Beer, wine, and liquor law enforcement.	123.47	Repealed by 97 Acts, ch 126, §54.
123.15	Repealed by 93 Acts, ch 91, §22.	123.47A	Parental and school notification — persons under eighteen years of age.
123.16	Duties of commission and administrator.	123.47B	Seizure of false or altered driver's license or nonoperator identification card.
123.17	Prohibition on commission members and employees.	123.48	Miscellaneous prohibitions.
123.18	Favors from licensee or permittee.	123.49	Criminal and civil penalties.
123.19	Distiller's certificate of compliance — injunction — penalty.	123.50	Alcohol compliance employee training program.
123.20	Powers.	123.50A	Advertisements for alcoholic liquor, wine, or beer.
123.21	Rules.	123.51	Prohibited sale.
123.22	State monopoly.	123.52	Beer and liquor control fund — allocations to substance abuse — use of civil penalties.
123.23	Repealed by 86 Acts, ch 1246, §754.	123.53	Appropriations.
123.24	Alcoholic liquor sales by the division — dishonored payments — liquor prices.		Annual report.
123.25	Consumption on premises.	123.54	Native wines.
123.26	Restrictions on sales — seals — labeling.	123.55	Examination of accounts.
123.27	Sales and deliveries prohibited.	123.56	Auditing.
123.28	Restrictions on transportation.	123.57	Bootlegging.
123.29	Patent and proprietary products and sacramental wine.	123.58	Nuisances.
123.30	Liquor control licenses — classes.	123.59	Penalty.
123.31	Application contents.	123.60	Injunction.
123.32	Action by local authorities and division on applications for liquor control licenses and micro-distilled spirits, wine, and beer permits.	123.61	Temporary writ.
123.33	Records.	123.62	Notice.
123.34	Expiration — seasonal, five-day, or fourteen-day license or permit.	123.63	Scope of injunction.
123.35	Simplified renewal procedure — class "E" procedure. Repealed by 2011 Acts, ch 17, §16.	123.64	Trial of action.
		123.65	General reputation.
		123.66	Contempt.
		123.67	Trial of contempt action.
		123.68	Injunction against bootlegger.
		123.69	
		123.70	

123.71	Conditions on injunction proceeding.		
123.72	Order of abatement of nuisance.		
123.73	Use of abated premises.	123.122	Permit or license required.
123.74	Fees.	123.123	Effect on liquor control licensees.
123.75	Proceeds of sale.	123.124	Permits — classes.
123.76	Abatement of nuisance.	123.125	Issuance of permits.
123.77	Abatement before judgment.	123.126	High alcoholic content beer — applicability.
123.78	Existing liens.		
123.79	Abatement bond a lien.	123.127	Class “A” or “AA” and special class “A” or “AA” applications.
123.80	Attested copies filed.		
123.81	Forfeiture of bond.	123.128	Class “B” application.
123.82	Procedure.	123.129	Class “C” application.
123.83	Method of trial.	123.130	Authority under class “A”, class “AA”, special class “A”, and special class “AA” permits.
123.84	Judgment.		
123.85	Appeal.		
123.86	County attorney to prosecute.	123.131	Authority under class “B” permit.
123.87	Prompt service.	123.132	Authority under class “C” permit.
123.88	Evidence.	123.133	Sale on trains — bond. Repealed by 2011 Acts, ch 17, §16.
123.89	Counts.		
123.90	Penalties generally.	123.134	Beer fees — Sunday sales.
123.91	Second and subsequent conviction.	123.135	Certificate of compliance — civil penalty.
123.92	Civil liability for dispensing or sale and service of beer, wine, or intoxicating liquor (Dramshop Act) — liability insurance — underage persons.	123.136	Barrel tax.
		123.137	Report of barrel sales — penalty.
		123.138	Records required — keg identification sticker.
		123.139	Separate locations — class “A”, special class “A”.
123.93	Limitation of action.	123.140	Separate locations — class “B” or “C”.
123.94	Inurement of action prohibited.		
123.95	Premises must be licensed — exception as to conventions and social gatherings.	123.141	Keeping liquor where beer is sold.
		123.142	Unlawful sale and importation.
123.96	Repealed by 86 Acts, ch 1246, §754.	123.143	Distribution of funds.
		123.144	Bottling beer.
123.97	Covered into general fund.	123.145	Labels on bottles, barrels, etc. — conclusive evidence.
123.98	Labeling shipments.	123.146	Repealed by 85 Acts, ch 198, §3.
123.99	False statements.	123.147	through 123.149 Reserved.
123.100	Packages in transit.		
123.101	Record of shipments.		
123.102	Inspection of shipping records.		
123.103	Record and certification upon delivery.		
123.104	Unlawful delivery.	123.150	Sunday sales before New Year’s Day.
123.105	Immunity from damage.		
123.106	Federal statutes.	123.151	Repealed by 93 Acts, ch 91, §22.
123.107	Unnecessary allegations.	123.152	Reserved.
123.108	Second conviction defined.		
123.109	Record of conviction.		
123.110	Proof of sale.		
123.111	Purchaser as witness.		
123.112	Peace officer as witness.		
123.113	Judgment lien.	123.153	through 123.162 Repealed by 2011 Acts, ch 17, §16.
123.114	Enforcement of lien.	123.163	through 123.170 Reserved.
123.115	Defense.		
123.116	Right to receive liquor, wine, or beer.		
123.117	Delivery to sheriff.		
123.118	Destruction.		
123.119	Evidence.	123.171	Wine certificate, permit, or license required.
123.120	Attempt to destroy.		
123.121	Venue.	123.172	Effect on liquor control licensees.

DIVISION II

BEER PROVISIONS

DIVISION III

SPECIAL PROVISIONS

DIVISION IV

WAREHOUSE PROJECT

DIVISION V

WINE PROVISIONS — CHARITY BEER AND WINE AUCTIONS

123.173	Wine permits — classes — authority.	123.180	Vintner's certificate of compliance — wholesale and retail restrictions — penalty.
123.173A	Charity beer, spirits, and wine auction permit.	123.181	Prohibited acts.
123.174	Issuance of wine permits.	123.182	Labels — point of origin — conclusive evidence.
123.175	Application contents.	123.183	Wine gallonage tax and related funds.
123.176	Repealed by 2003 Acts, ch 143, §15, 17.	123.184	Report of gallonage sales — penalty.
123.177	Authority under class "A" permit.	123.185	Records required.
123.178	Authority under class "B" permit.	123.186	Federal regulations adopted as rules.
123.178A	Authority under class "B" native permit.	123.187	Direct shipment of wine — licenses and requirements.
123.178B	Authority under class "C" native permit.		
123.179	Permit fees.		

## DIVISION I

### GENERAL PROVISIONS RELATING TO ALCOHOLIC BEVERAGES

Referred to in §123.122, 123.171

#### **123.1 Public policy declared.**

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

[C35, §1921-f1; C39, §1921.001; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.1] 85 Acts, ch 32, §3; 86 Acts, ch 1122, §1

#### **123.2 General prohibition.**

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

[C35, §1921-f3; C39, §1921.003; C46, 50, 54, 58, 62, 66, 71, §123.3; C73, 75, 77, 79, 81, §123.2]

85 Acts, ch 32, §4

#### **123.3 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the division, appointed pursuant to the provisions of this chapter, or the administrator's designee.

2. "Air common carrier" means a person engaged in transporting passengers for hire in interstate or foreign commerce by aircraft and operating regularly scheduled flights under a certificate of public convenience issued by the civil aeronautics board.

3. "Alcohol" means the product of distillation of any fermented liquor rectified one or more times, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

4. "Alcoholic beverage" means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine, and beer.

5. "Alcoholic liquor" or "intoxicating liquor" means the varieties of liquor defined in subsections 3 and 43 which contain more than five percent of alcohol by weight, beverages made as described in subsection 7 which beverages contain more than five percent of alcohol by weight but which are not wine as defined in subsection 47 or high alcoholic content beer as defined in subsection 19, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the process described in subsection 47 containing more than seventeen percent alcohol by weight or twenty-one and twenty-five

hundredths percent of alcohol by volume, and susceptible of being consumed by a human being, for beverage purposes. Alcohol manufactured in this state for use as fuel pursuant to an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms is not an “*alcoholic liquor*”.

6. “*Application*” means a written request for the issuance of a permit or license that is supported by a verified statement of facts and submitted electronically, or in a manner prescribed by the administrator.

7. “*Beer*” means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five percent of alcohol by weight or six and twenty-five hundredths percent of alcohol by volume but not including mixed drinks or cocktails mixed on the premises.

8. “*Brewer*” means any person who manufactures beer for the purpose of sale, barter, exchange, or transportation.

9. “*Broker*” means a person who represents or promotes alcoholic liquor within the state on behalf of the holder of a distiller’s certificate of compliance through an agreement with the distiller, and whose name is disclosed on a distiller’s current certificate of compliance as its representative in the state. An employee of the holder of a distiller’s certificate of compliance is not a broker.

10. “*City*” means a municipal corporation but not including a county, township, school district, or any special purpose district or authority.

11. “*Club*” means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

12. “*Commercial establishment*” means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five persons at one time, and the licensed premises of which conform to the standards and specifications of the division.

13. “*Commission*” means the alcoholic beverages commission established by this chapter.

14. “*Designated security employee*” means an agent, contract employee, independent contractor, servant, or employee of a licensee or permittee who works in a security position in any capacity at a commercial establishment licensed or permitted under this chapter.

15. “*Distillery*”, “*winery*”, and “*brewery*” mean not only the premises where alcohol or spirits are distilled, wine is fermented, or beer is brewed, but in addition mean a person owning, representing, or in charge of such premises and the operations conducted there, including the blending and bottling or other handling and preparation of alcoholic liquor, wine, or beer in any form.

16. “*Division*” means the alcoholic beverages division of the department of commerce established by this chapter.

17. “*Grape brandy*” means brandy produced by the distillation of fermented grapes or grape juice.

18. “*Grocery store*” means any retail establishment, the business of which consists of the sale of food, food products, or beverages for consumption off the premises.

19. “*High alcoholic content beer*” means beer which contains more than five percent of alcohol by weight or six and twenty-five hundredths percent of alcohol by volume, but not more than twelve percent of alcohol by weight or fifteen percent of alcohol by volume, that is made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains. Not more than one and five-tenths percent of the volume of a “*high alcoholic content beer*” may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol. The added flavors and other nonbeverage ingredients may not include added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine.

20. “*Hotel*” or “*motel*” means premises licensed by the department of inspections and

appeals and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty or more sleeping rooms.

21. *“Import”* means the transporting or ordering or arranging the transportation of alcoholic liquor, wine, or beer into this state whether by a resident of this state or not.

22. *“Importer”* means the person who transports or orders, authorizes, or arranges the transportation of alcoholic liquor, wine, or beer into this state whether the person is a resident of this state or not.

23. The terms *“in accordance with the provisions of this chapter”*, *“pursuant to the provisions of this title”*, or similar terms shall include all rules and regulations of the division adopted to aid in the administration or enforcement of those provisions.

24. *“Legal age”* means twenty-one years of age or more.

25. *“Licensed premises”* or *“premises”* means all rooms, enclosures, contiguous areas, or places susceptible of precise description satisfactory to the administrator where alcoholic beverages, wine, or beer is sold or consumed under authority of a liquor control license, wine permit, or beer permit. A single licensed premises may consist of multiple rooms, enclosures, areas or places if they are wholly within the confines of a single building or contiguous grounds.

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

27. *“Manufacture”* means to distill, rectify, ferment, brew, make, mix, concoct, or process any substance capable of producing a beverage containing more than one-half of one percent of alcohol by volume and includes blending, bottling, or the preparation for sale.

28. *“Micro-distilled spirits”* means distilled spirits fermented, distilled, or, for a period of two years, barrel matured on the licensed premises of the micro-distillery where fermented, distilled, or matured. *“Micro-distilled spirits”* also includes blended or mixed spirits comprised solely of spirits fermented, distilled, or, for a period of two years, barrel matured at a micro-distillery.

29. *“Micro-distillery”* means a business with an operational still which, combining all production facilities of the business, produces and manufactures less than fifty thousand proof gallons of distilled spirits on an annual basis.

30. *“Native wine”* means wine manufactured pursuant to section 123.56 by a manufacturer of native wine.

31. *“Package”* means any container or receptacle used for holding alcoholic liquor.

32. *“Permit”* or *“license”* means an express written authorization issued by the division for the manufacture or sale, or both, of alcoholic liquor, wine, or beer.

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

34. *“Person of good moral character”* means any person who meets all of the following requirements:

a. The person has such financial standing and good reputation as will satisfy the administrator that the person will comply with this chapter and all laws, ordinances, and regulations applicable to the person's operations under this chapter. However, the administrator shall not require the person to post a bond to meet the requirements of this paragraph.

b. The person is not prohibited by section 123.40 from obtaining a liquor control license or a wine or beer permit.

c. Notwithstanding paragraph “e”, the applicant is a citizen of the United States and a resident of this state, or licensed to do business in this state in the case of a corporation. Notwithstanding paragraph “e”, in the case of a partnership, only one general partner need be a resident of this state.

d. The person has not been convicted of a felony. However, if the person's conviction of a

felony occurred more than five years before the date of the application for a license or permit, and if the person's rights of citizenship have been restored by the governor, the administrator may determine that the person is of good moral character notwithstanding such conviction.

e. The requirements of this subsection apply to the following:

(1) Each of the officers, directors, and partners of such person.

(2) A person who directly or indirectly owns or controls ten percent or more of any class of stock of such person.

(3) A person who directly or indirectly has an interest of ten percent or more in the ownership or profits of such person.

35. "Pharmacy" means a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists, or veterinarians are compounded and sold by a registered pharmacist.

36. "Public place" means any place, building, or conveyance to which the public has or is permitted access.

37. "Residence" means the place where a person resides, permanently or temporarily.

38. "Retail beer permit" means a class "B" or class "C" beer permit issued under the provisions of this chapter.

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

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

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

42. "School" means a public or private school or that portion of a public or private school which provides facilities for teaching any grade from kindergarten through grade twelve.

43. "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, but not limited to, brandy, rum, whisky, and gin.

44. "Unincorporated town" means a compactly populated area recognized as a distinct place with a distinct place-name which is not itself incorporated or within the corporate limits of a city.

45. "Warehouse" means any premises or place primarily constructed or used or provided with facilities for the storage in transit or other temporary storage of perishable goods or for the conduct of normal warehousing business.

46. "Wholesaler" means any person, other than a vintner, brewer or bottler of beer or wine, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer. A wholesaler shall not sell for consumption upon the premises.

47. "Wine" means any beverage containing more than five percent of alcohol by weight but not more than seventeen percent of alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

[C35, §1921-f5, 1921-f97; C39, §1921.005, 1921.096; C46, 50, 54, 58, 62, 66, 71, §123.5, 124.2; C73, 75, 77, 79, 81, §123.3; 81 Acts, ch 55, §1]

85 Acts, ch 32, §5 – 8; 86 Acts, ch 1122, §2 – 4; 86 Acts, ch 1246, §724, 725; 88 Acts, ch 1088, §1; 88 Acts, ch 1241, §1; 89 Acts, ch 161, §1; 93 Acts, ch 91, §1; 94 Acts, ch 1017, §1; 97 Acts, ch 126, §1; 2000 Acts, ch 1201, §1; 2003 Acts, ch 143, §1, 2, 17; 2005 Acts, ch 13, §1; 2006 Acts, ch 1032, §1; 2006 Acts, ch 1185, §118; 2010 Acts, ch 1031, §87, 88, 96; 2011 Acts, ch 17, §1 – 3, 17; 2011 Acts, ch 30, §2; 2013 Acts, ch 35, §1, 24

Referred to in §7D.16, 99B.6, 99F.4, 123.32, 123.130, 123.140, 123.173, 123.175, 142D.2, 455B.301, 455C.1, 455C.5, 455C.16

[T] Subsections 6, 7, and 19 amended

**123.4 Alcoholic beverages division created.**

An alcoholic beverages division is created within the department of commerce to administer and enforce the laws of this state concerning beer, wine, and alcoholic liquor.

[C35, §1921-f15; C39, §1921.015; C46, 50, 54, 58, 62, 66, 71, §123.15; C73, 75, 77, 79, 81, §123.4]

85 Acts, ch 32, §9; 86 Acts, ch 1245, §731

**123.5 Alcoholic beverages commission created.**

An alcoholic beverages commission is created within the division. The commission is composed of five members, not more than three of whom shall belong to the same political party.

[C35, §1921-f6; C39, §1921.006; C46, 50, 54, 58, 62, 66, 71, §123.6; C73, 75, 77, 79, 81, §123.5]

86 Acts, ch 1245, §732

**123.6 Appointment — term — expenses — compensation.**

Appointments shall be for five-year staggered terms beginning and ending as provided by section 69.19 and shall be made by the governor, subject to confirmation by the senate. Members of the commission shall be chosen on the basis of managerial ability and experience as business executives. Not more than two members of the commission may be the holder of or have an interest in a permit or license to manufacture alcoholic liquor, wine, or beer or to sell alcoholic liquor, wine, or beer at wholesale or retail. A member may be reappointed for one additional term. Each member appointed is entitled to receive reimbursement of actual expenses incurred while attending meetings. Each member of the commission may also be eligible to receive compensation as provided in section 7E.6.

[C35, §1921-f7, 1921-f10; C39, §1921.007, 1921.010; C46, 50, 54, 58, 62, 66, 71, §123.7, 123.10; C73, 75, 77, 79, 81, §123.6; 82 Acts, ch 1024, §1]

85 Acts, ch 32, §10; 86 Acts, ch 1245, §733; 2011 Acts, ch 17, §4

Referred to in §123.45  
[P] Confirmation, see §2.32

**123.7 Vacancies.**

Any vacancy occurring shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

[C35, §1921-f8; C39, §1921.008; C46, 50, 54, 58, 62, 66, 71, §123.8; C73, 75, 77, 79, 81, §123.7]

**123.8 Surety bonds.** Repealed by 2013 Acts, ch 35, § 23.**123.9 Commission meetings.**

The commission shall meet on or before July 1 of each year for the purpose of selecting one of its members as chairperson for the succeeding year. The commission shall otherwise meet quarterly or at the call of the chairperson or administrator or when three members file a written request for a meeting. Written notice of the time and place of each meeting shall be given to each member of the commission. A majority of the commission members shall constitute a quorum.

[C35, §1921-f10; C39, §1921.010; C46, 50, 54, 58, 62, 66, 71, §123.10; C73, 75, 77, 79, 81, §123.9]

2011 Acts, ch 17, §5

**123.10 Administrator appointed — duties.**

1. The governor shall appoint the administrator of the alcoholic beverages division, subject to confirmation by the senate, to a four-year term. A vacancy in an unexpired term shall be filled in the same manner as a full-term appointment is made. The administrator shall not be a member of the commission. The administrator's salary shall be fixed by the general assembly. The administrator shall be qualified to perform the administrator's duties by managerial ability and experience as a business executive.

2. The administrator shall devote full time to the discharge of the administrator's duties. The administrator shall not hold any other elective or appointive office under the laws of this state, the United States, or any other state or territory. The administrator shall not accept or solicit, directly or indirectly, contributions or anything of value in behalf of the administrator, any political party, or any person seeking an elective or appointive office nor use the administrator's official position to advance the candidacy of anyone seeking an elective or appointive office. The administrator, the administrator's spouse, and immediate family shall not have any interest in any distillery, winery, brewery, importer, permittee or licensee or any business which is subject to license or regulation pursuant to this chapter.

[C73, 75, 77, 79, 81, §123.10]

86 Acts, ch 1245, §735; 2013 Acts, ch 35, §20

Referred to in §546.9

[P] Confirmation, see §2.32

[T] Unnumbered paragraph 1 amended and editorially designated as subsection 1

[T] Unnumbered paragraph 2 editorially designated as subsection 2

### **123.11 Expenses.**

Members of the commission, the administrator, and other employees of the division shall be allowed their actual and necessary expenses while traveling on business of the division outside of their place of residence, however, an itemized account of such expenses shall be verified by the claimant and approved by the administrator. If such account is paid, the same shall be filed with the division and be and remain a part of its permanent records. All expenses and salaries of commission members, the administrator, and other employees shall be paid from appropriations for such purposes and the division shall be subject to the budget requirements of chapter 8.

[C35, §1921-f11; C39, §1921.011; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.11]

### **123.12 Removal.**

Any commission member shall be removed for any of the causes and in the manner provided by chapter 66 relating to removal from office; such removal shall not be in lieu of any other punishment that may be prescribed by the laws of this state.

[C35, §1921-f12; C39, §1921.012; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.12]

### **123.13 Exemption from suit.**

No commission member or officer or employee of the division shall be personally liable for damages sustained by any person due to the act of such member, officer, or employee performed in the reasonable discharge of the member's, officer's, or employee's duties as enumerated in this chapter.

[C35, §1921-f13; C39, §1921.013; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.13]

### **123.14 Beer, wine, and liquor law enforcement.**

1. The department of public safety is the primary beer, wine, and liquor law enforcement authority for this state.

2. The county attorney, the county sheriff and the sheriff's deputies, and the police department of every city, and the alcoholic beverages division of the department of commerce, shall be supplementary aids to the department of public safety. Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section shall be sufficient cause for the peace officer's removal as provided by law. This section shall not be construed to affect the duties and responsibilities of any county attorney or peace officer with respect to law enforcement.

3. The department of public safety shall have full access to all records, reports, audits, tax reports and all other documents and papers in the alcoholic beverages division pertaining to liquor licensees and wine and beer permittees and their business.

[C35, §1921-f94; C39, §1921.093; C46, 50, 54, 58, 62, 66, 71, §123.93; C73, 75, 77, 79, 81, §123.14]

85 Acts, ch 32, §11; 88 Acts, ch 1241, §2; 2002 Acts, ch 1119, §11; 2005 Acts, ch 35, §28

Referred to in §331.653, 331.756(25)

**123.15** Repealed by 93 Acts, ch 91, § 22.

**123.16 Duties of commission and administrator.**

1. The commission, in addition to the duties specifically enumerated in this chapter, shall act as a division policy-making body and serve in an advisory capacity to the administrator. The administrator shall supervise the daily operations of the division and shall execute the policies of the division as determined by the commission.

2. The commission may review and affirm, reverse, or amend all actions of the administrator, including but not limited to the following instances:

- a. Purchases of alcoholic liquor for resale by the division.
- b. The establishment of wholesale prices of alcoholic liquor.

[C73, 75, 77, 79, 81, §123.16]

85 Acts, ch 32, §13; 86 Acts, ch 1122, §5; 86 Acts, ch 1245, §737; 86 Acts, ch 1246, §726, 727; 93 Acts, ch 91, §2

**123.17 Prohibition on commission members and employees.**

Commission members, officers, and employees of the division shall not, while holding such office or position, hold any other office or position under the laws of this state, or any other state or territory or of the United States; nor engage in any occupation, business, endeavor, or activity which would or does conflict with their duties under this chapter; nor, directly or indirectly, use their office or employment to influence, persuade, or induce any other officer, employee, or person to adopt their political views or to favor any particular candidate for an elective or appointive public office; nor, directly or indirectly, solicit or accept, in any manner or way, any money or other thing of value for any person seeking an elective or appointive public office, or to any political party or any group of persons seeking to become a political party. Any officer or employee violating this section or any other provisions of this chapter shall, in addition to any other penalties provided by law, be subject to suspension or discharge from employment. Any commission member shall, in addition to any other penalties provided by law, be subject to removal from office as provided by law.

[C35, §1921-f14; C39, §1921.014; C46, 50, 54, 58, 62, 66, 71, §123.14; C73, 75, 77, 79, 81, §123.17]

**123.18 Favors from licensee or permittee.**

A person responsible for the administration or enforcement of this chapter shall not accept or solicit donations, gratuities, political advertising, gifts, or other favors, directly or indirectly, from any liquor control licensee, wine permittee, or beer permittee.

[C35, §1921-f27; C39, §1921.027; C46, 50, 54, 58, 62, 66, 71, §123.27; C73, 75, 77, 79, 81, §123.18]

85 Acts, ch 32, §14

**123.19 Distiller's certificate of compliance — injunction — penalty.**

1. Any manufacturer, distiller, or importer of alcoholic beverages shipping, selling, or having alcoholic beverages brought into this state for resale by the state shall, as a condition precedent to the privilege of so trafficking in alcoholic liquors in this state, annually make application for and hold a distiller's certificate of compliance which shall be issued by the administrator for that purpose. No brand of alcoholic liquor shall be sold by the division in this state unless the manufacturer, distiller, importer, and all other persons participating in the distribution of that brand in this state have obtained a certificate. The certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise suspended or revoked for cause. Each application for a certificate of compliance or renewal shall be submitted electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of fifty dollars payable to the division. However, this subsection need not apply to a manufacturer, distiller, or importer who ships or sells in this state no more than eleven gallons or its case equivalent during any fiscal year as a result of "special orders" which might be placed, as defined and allowed by divisional rules adopted under this chapter.

2. At the time of applying for a certificate of compliance, each applicant shall submit to the division electronically, or in a manner prescribed by the administrator, the name and address of its authorized agent for service of process which shall remain effective until changed for another, and a list of names and addresses of all representatives, employees, or attorneys whom the applicant has appointed in the state of Iowa to represent it for any purpose. The listing shall be amended from time to time by the certificate holder as necessary to keep the listing current with the division.

3. The administrator and the attorney general are authorized to require any certificate holder or person listed as the certificate holder's representative, employee, or attorney to disclose such financial and other records and transactions as may be considered relevant in discovering violations of this chapter or of rules and regulations of the division or of any other provision of law by any person.

4. Any violation of the requirements of this section, except subsection 3, shall subject the violator to the general penalties provided in this chapter and in addition to the general penalties, is grounds for suspension or revocation of the certificate of compliance, after notice and hearing before the administrator. Willful failure to comply with requirements which may be imposed under subsection 3 is grounds for suspension or revocation of the certificate of compliance only.

5. This section shall not require the listing of those persons who are employed on premises where alcoholic beverages are manufactured, processed, bottled or packaged in Iowa or persons who are thereafter engaged in the transporting of such alcoholic beverages to the division.

6. The attorney general may also proceed pursuant to the provisions of section 714.16 in order to gain compliance with subsection 3 of this section and may obtain an injunction prohibiting any further violations of this chapter or other provisions of law. Any violation of that injunction shall be punished as contempt of court pursuant to chapter 665 except that the maximum fine that may be imposed shall not exceed fifty thousand dollars.

[C73, 75, 77, 79, 81, §123.19]

85 Acts, ch 32, §15; 86 Acts, ch 1237, §6; 93 Acts, ch 91, §3; 2013 Acts, ch 35, §2

[T] Subsections 1 and 2 amended

### **123.20 Powers.**

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

1. To receive alcoholic liquors on a bailment system for resale by the division in the manner set forth in this chapter.

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

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

4. To appoint clerks, agents, or other employees required for carrying out the provisions of this chapter; to dismiss employees for cause; to assign employees to bureaus as created by the administrator within the division; and to designate their title, duties, and powers. All employees of the division are subject to chapter 8A, subchapter IV, unless exempt under section 8A.412.

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

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

7. To accept intoxicating liquors ordered delivered to the alcoholic beverages division pursuant to chapter 809A, and offer for sale and deliver the intoxicating liquors to class "E" liquor control licensees, unless the administrator determines that the intoxicating liquors may

be adulterated or contaminated. If the administrator determines that the intoxicating liquors may be adulterated or contaminated, the administrator shall order their destruction.

[C35, §1921-f16; C39, §1921.016; C46, 50, 54, 58, 62, 66, 71, §123.16; C73, 75, 77, 79, 81, §123.20]

83 Acts, ch 157, §1; 85 Acts, ch 90, §2; 86 Acts, ch 1122, §6; 86 Acts, ch 1245, §738; 86 Acts, ch 1246, §728 – 730; 87 Acts, ch 115, §20; 88 Acts, ch 1241, §3; 96 Acts, ch 1133, §40; 2003 Acts, ch 145, §185

### **123.21 Rules.**

The administrator, with the approval of the commission and subject to chapter 17A, may adopt rules as necessary to carry out this chapter. The administrator's authority extends to, but is not limited to, the following:

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

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

3. Regulating the purchase of alcoholic liquor generally and the furnishing of the liquor to class "E" liquor control licensees under this chapter, and determining the classes, varieties, and brands of alcoholic liquors to be kept in state warehouses.

4. Prescribing forms or information blanks to be used for the purposes of this chapter. The division shall prepare, print, and furnish all forms and information blanks required under this chapter.

5. Prescribing the nature and character of evidence which shall be required to establish legal age.

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

7. Prescribing the official seals, labels, or other markings which shall be attached to or stamped on packages of alcoholic liquor sold under this chapter.

8. Prescribing, subject to this chapter, the days and hours during which state warehouses shall be kept open for the purpose of the sale and delivery of alcoholic liquors.

9. Prescribing the place and the manner in which alcoholic liquor may be lawfully kept or stored by the licensed manufacturer under this chapter.

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

11. Prescribing, subject to the provisions of this chapter, the conditions and qualifications necessary for the obtaining of licenses and permits and the books and records to be kept and the remittances to be made by those holding licenses and permits and providing for the inspection of the records of all such licensees and permittees.

12. Providing for the issuance of combination licenses and permits with fees consistent

with individual license and permit fees as may be necessary for the efficient administration of this chapter.

[C35, §1921-f17; C39, §1921.017; C46, 50, 54, 58, 62, 66, 71, §123.17; C73, 75, 77, 79, 81, §123.21]

85 Acts, ch 32, §16, 17; 86 Acts, ch 1122, §7; 86 Acts, ch 1245, §739; 86 Acts, ch 1246, §731, 732

### **123.22 State monopoly.**

The division has the exclusive right of importation into the state of all forms of alcoholic liquor, except as otherwise provided in this chapter, and a person shall not import alcoholic liquor, except that an individual of legal age may import and have in the individual's possession an amount of alcoholic liquor not exceeding one liter or, in the case of alcoholic liquor personally obtained outside the United States, four liters for personal consumption only in a private home or other private accommodation. A distillery shall not sell alcoholic liquor within the state to any person but only to the division, except as otherwise provided in this chapter. This section vests in the division exclusive control within the state as purchaser of all alcoholic liquor sold by distilleries within the state or imported, except beer and wine, and except as otherwise provided in this chapter. The division shall receive alcoholic liquor on a bailment system for resale by the division in the manner set forth in this chapter. The division shall act as the sole wholesaler of alcoholic liquor to class "E" liquor control licensees.

No person, acting individually or through another acting for the person shall directly or indirectly, or upon any pretense, or by any device, manufacture, sell, exchange, barter, dispense, give in consideration of the purchase of any property or of any services or in evasion of this chapter, or keep for sale, or have possession of any intoxicating liquor, except as provided in this chapter; or own, keep, or be in any way concerned, engaged, or employed in owning or keeping, any intoxicating liquor with intent to violate any provision of this chapter, or authorize or permit the same to be done; or manufacture, own, sell, or have possession of any manufactured or compounded article, mixture or substance, not in a liquid form, and containing alcohol which may be converted into a beverage by a process of pressing or straining the alcohol therefrom, or any instrument intended for use and capable of being used in the manufacture of intoxicating liquor; or own or have possession of any material used exclusively in the manufacture of intoxicating liquor; or use or have possession of any material with intent to use it in the manufacture of intoxicating liquors; however, alcohol may be manufactured for industrial and nonbeverage purposes by persons who have qualified for that purpose as provided by the laws of the United States and the laws of this state. Such alcohol, so manufactured, may be denatured, transported, used, possessed, sold, and bartered and dispensed, subject to the limitations, prohibitions and restrictions imposed by the laws of the United States and this state. Any person may manufacture, sell, or transport ingredients and devices other than alcohol for the making of homemade wine.

[C51, §924 – 928; R60, §1559, 1563, 1583, 1587; C73, §1523, 1540 – 1542, 1555; C97, §2382; SS15, §2382; C24, 27, 31, §1924; C35, §1921-f54, 1924; C39, §1921.054, 1924; C46, 50, 54, 58, 62, 66, 71, §123.54, 125.3; C73, 75, 77, 79, 81, §123.22]

85 Acts, ch 32, §18; 86 Acts, ch 1246, §733; 88 Acts, ch 1241, §4; 89 Acts, ch 161, §2

Referred to in §123.26, 123.28

**123.23** Repealed by 86 Acts, ch 1246, § 754.

### **123.24 Alcoholic liquor sales by the division — dishonored payments — liquor prices.**

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.

2. a. The division may accept from a class "E" liquor control licensee electronic funds transferred by automated clearing house, wire transfer, or another method deemed acceptable by the administrator, in payment of alcoholic liquor. If a payment is subsequently

dishonored, the division shall cause a notice of nonpayment and penalty to be served upon the class “E” liquor control licensee or upon any person in charge of the licensed premises. The notice shall state that if payment or satisfaction for the dishonored payment is not made within ten days of the service of notice, the licensee’s liquor control license may be suspended under section 123.39. The notice of nonpayment and penalty shall be in a form prescribed by the administrator, and shall be sent by certified mail.

b. If upon notice and hearing under section 123.39 and pursuant to the provisions of chapter 17A concerning a contested case hearing, the administrator determines that the class “E” liquor control licensee failed to satisfy the obligation for which the payment was issued within ten days after the notice of nonpayment and penalty was served on the licensee as provided in paragraph “a” of this subsection, the administrator may suspend the licensee’s class “E” liquor control license for a period not to exceed ten days.

3. The administrator may refuse to sell alcoholic liquor to a class “E” liquor control licensee who tenders a payment which is subsequently dishonored until the outstanding obligation is satisfied.

4. The price of alcoholic liquor sold by the division shall include a markup of up to 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 fifty percent markup.

5. Notwithstanding subsection 4, the division shall assess a bottle surcharge to be included in the price of alcoholic liquor in an amount sufficient, when added to the amount not refunded to class “E” liquor control licensees pursuant to section 455C.2, to pay the costs incurred by the division for collecting and properly disposing of the liquor containers. The amount collected pursuant to this subsection, in addition to any amounts not refunded to class “E” liquor control licensees pursuant to section 455C.2, shall be deposited in the beer and liquor control fund established under section 123.53.

[C35, §1921-f20, 1921-f41; C39, §1921.020, 1921.041; C46, 50, 54, 58, 62, 66, 71, §123.20, 123.41; C73, 75, 77, 79, 81, §123.24; 81 Acts, ch 56, §1]

86 Acts, ch 1246, §734; 87 Acts, ch 22, §1, 2; 88 Acts, ch 1158, §29; 88 Acts, ch 1241, §5; 92 Acts, ch 1242, §24; 93 Acts, ch 91, §4, 5; 2013 Acts, ch 35, §21

[T] Subsections 2 and 3 amended

### **123.25 Consumption on premises.**

An officer, clerk, agent, or employee of the division employed in a state-owned warehouse shall not allow any alcoholic liquor to be consumed on the premises, nor shall a person consume any liquor on the premises except for testing or sampling purposes only.

[C35, §1921-f23; C39, §1921.023; C46, 50, 54, 58, 62, 66, 71, §123.23; C73, 75, 77, 79, 81, §123.25]

86 Acts, ch 1122, §8; 86 Acts, ch 1246, §735

### **123.26 Restrictions on sales — seals — labeling.**

Alcoholic liquor shall not be sold by a class “E” liquor control licensee except in a sealed container with identifying markers as prescribed by the administrator and affixed 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.

[C35, §1921-f24; C39, §1921.024; C46, 50, 54, 58, 62, 66, 71, §123.24; C73, 75, 77, 79, 81, §123.26]

86 Acts, ch 1246, §736; 87 Acts, ch 22, §3

Referred to in §123.28

**123.27 Sales and deliveries prohibited.**

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

1. After the closing hour as established by the administrator.
2. On any legal holiday except those designated by the administrator.
3. On any Sunday.
4. During other periods or days as designated by the administrator.

[C35, §1921-f25; C39, §1921.025; C46, 50, 54, 58, 62, 66, 71, §123.25; C73, 75, 77, 79, 81, §123.27; 81 Acts, ch 6, §11]

85 Acts, ch 32, §20; 86 Acts, ch 1122, §9; 86 Acts, ch 1246, §737; 89 Acts, ch 161, §3

[P] Required closure of the main state warehouse every Friday during the fiscal period beginning July 1, 2010, and ending June 30, 2015, and optionally for the next fiscal year; exceptions as determined by the administrator; 2010 Acts, ch 1031, §97

**123.28 Restrictions on transportation.**

It is lawful to transport, carry, or convey alcoholic liquors from the place of purchase by the division to a state warehouse or depot established by the division or from one such place to another and, when so permitted by this chapter, it is lawful for the division, a common carrier, or other person to transport, carry, or convey alcoholic liquor sold from a state warehouse, depot, or point of purchase by the state to any place to which the liquor may be lawfully delivered under this chapter. The division shall deliver alcoholic liquor purchased by class “E” liquor control licensees. Class “E” liquor control licensees may deliver alcoholic liquor purchased by class “A”, “B”, or “C” liquor control licensees, and class “A”, “B”, or “C” liquor control licensees may transport alcoholic liquor purchased from class “E” liquor control licensees. A common carrier or other person shall not break or open or allow to be broken or opened a container or package containing alcoholic liquor or use or drink or allow to be used or drunk any alcoholic liquor while it is being transported or conveyed, but this section does not prohibit a private person from transporting individual bottles or containers of alcoholic liquor exempted pursuant to section 123.22 and individual bottles or containers bearing the identifying mark prescribed in section 123.26 which have been opened previous to the commencement of the transportation. This section does not affect the right of a special permit or liquor control license holder to purchase, possess, or transport alcoholic liquors subject to this chapter.

[C35, §1921-f26; C39, §1921.026; C46, 50, 54, 58, 62, 66, 71, §123.26; C73, 75, 77, 79, 81, §123.28; 81 Acts, ch 6, §12]

84 Acts, ch 1275, §1; 85 Acts, ch 196, §1; 86 Acts, ch 1020, §1; 86 Acts, ch 1246, §738; 87 Acts, ch 170, §1; 95 Acts, ch 48, §1

[P] See also §321.284

**123.29 Patent and proprietary products and sacramental wine.**

1. This chapter does not prohibit the sale of patent and proprietary medicines, tinctures, food products, extracts, toiletries, perfumes, and similar products, which are not susceptible of use as a beverage, but which contain alcoholic liquor, wine, or beer as one of their ingredients. These products may be sold through ordinary wholesale and retail businesses without a license or permit issued by the division.

2. This chapter does not prohibit a member of the clergy of any religious denomination which uses vinous liquor in its sacramental ceremonies from purchasing, receiving, possessing, and using vinous liquor for sacramental purposes.

[C24, 27, 31, §2171; C35, §1921-f27, 2171; C39, §1921.027, 2171; C46, 50, 54, 58, 62, 66, 71, §123.27, 134.1; C73, 75, 77, 79, 81, §123.29]

85 Acts, ch 32, §21; 86 Acts, ch 1246, §739, 740; 89 Acts, ch 161, §4 – 6; 93 Acts, ch 91, §6

**123.30 Liquor control licenses — classes.**

1. *a.* A liquor control license may be issued to any person who is of good moral character as defined by this chapter.

*b.* As a condition for issuance of a liquor control license or wine or beer permit, the applicant must give consent to members of the fire, police, and health departments and the building inspector of cities; the county sheriff, deputy sheriff, members of the department

of public safety, representatives of the division and of the department of inspections and appeals, certified police officers, and any official county health officer to enter upon areas of the premises where alcoholic beverages are stored, served, or sold, without a warrant during business hours of the licensee or permittee to inspect for violations of this chapter or ordinances and regulations that cities and boards of supervisors may adopt. However, a subpoena issued under section 421.17 or a warrant is required for inspection of private records, a private business office, or attached living quarters. Persons who are not certified peace officers shall limit the scope of their inspections of licensed premises to the regulatory authority under which the inspection is conducted. All persons who enter upon a licensed premises to conduct an inspection shall present appropriate identification to the owner of the establishment or the person who appears to be in charge of the establishment prior to commencing an inspection; however, this provision does not apply to undercover criminal investigations conducted by peace officers.

c. As a further condition for the issuance of a class “E” liquor control license, the applicant shall post a bond in 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 ensure that the division will receive full payment in advance of delivery of the alcoholic liquor.

d. 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.

2. A liquor control license shall not be issued for premises which do not conform to all applicable laws, ordinances, resolutions, and health and fire regulations. A licensee shall not have or maintain any interior access to residential or sleeping quarters unless permission is granted by the administrator in the form of a living quarters permit.

3. Liquor control licenses issued under this chapter shall be of the following classes:

a. *Class “A”.* A class “A” liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from class “E” liquor control licensees only, wine from class “A” wine permittees or class “B” wine permittees who also hold class “E” liquor control licenses only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer to bona fide members and their guests by the individual drink for consumption on the premises only.

b. *Class “B”.* A class “B” liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from class “E” liquor control licensees only, wine from class “A” wine permittees or class “B” wine permittees who also hold class “E” liquor control licenses only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. Each license shall be effective throughout the premises described in the application.

c. *Class “C”.*

(1) A class “C” liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors from class “E” liquor control licensees only, wine from class “A” wine permittees or class “B” wine permittees who also hold class “E” liquor control licenses only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises.

(2) A special class “C” liquor control license may be issued and shall authorize the holder to purchase wine from class “A” wine permittees or class “B” wine permittees who also hold class “E” liquor control licenses only, and to sell wine and beer to patrons by the individual

drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. The license issued to holders of a special class “C” license shall clearly state on its face that the license is limited.

*d. Class “D”.*

(1) A class “D” liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five persons or more operating in inland or boundary waters, and shall authorize the holder to sell or furnish alcoholic beverages, wine, and beer to passengers for consumption only on trains, watercraft as described in this section, or aircraft, respectively. Each license is valid throughout the state. Only one license is required for all trains, watercraft, or aircraft operated in the state by the licensee. However, if a watercraft is an excursion gambling boat licensed under chapter 99F, the owner shall obtain a separate class “D” liquor control license for each excursion gambling boat operating in the waters of this state.

(2) A class “D” liquor control licensee who operates a train or a watercraft intrastate only, or an excursion gambling boat licensed under chapter 99F, shall purchase alcoholic liquor from a class “E” liquor control licensee only, wine from a class “A” wine permittee or a class “B” wine permittee who also holds a class “E” liquor control license only, and beer from a class “A” beer permittee only.

*e. Class “E”.*

(1) A class “E” liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and high alcoholic content beer from a class “AA” beer permittee only and to sell the alcoholic liquor and high alcoholic content beer to patrons for consumption off the licensed premises and to other liquor control licensees. 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, though the separate premises may have a common entrance. 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.

(2) The division may issue a class “E” liquor control license for premises covered by a liquor control license or wine or beer permit for on-premises consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class “E” liquor control license has been issued by the division, and no other application for a class “E” license has been made within the previous twelve consecutive months.

4. Notwithstanding any provision of this chapter to the contrary, a person holding a license to sell alcoholic liquors for consumption on the licensed premises may permit a customer to remove one unsealed bottle of wine for consumption off the premises if the customer has purchased and consumed a portion of the bottle of wine on the licensed premises. The licensee or the licensee’s agent shall securely reseal such bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been tampered with and provide a dated receipt for the resealed bottle of wine to the customer. A wine bottle resealed pursuant to the requirements of this subsection is subject to the requirements of sections 321.284 and 321.284A.

[C35, §1921-f27; C39, §1921.027; C46, 50, 54, 58, 62, 66, 71, §123.27; C73, 75, 77, 79, 81, §123.30]

85 Acts, ch 32, §22; 86 Acts, ch 1246, §741, 742; 87 Acts, ch 22, §4 – 6; 88 Acts, ch 1088, §2, 3; 88 Acts, ch 1241, §6, 7; 90 Acts, ch 1175, §6; 91 Acts, ch 203, §1; 93 Acts, ch 91, §7, 8; 2009 Acts, ch 41, §263; 2009 Acts, ch 74, §1; 2010 Acts, ch 1193, §111, 140; 2011 Acts, ch 17, §6; 2013 Acts, ch 30, §22

Referred to in §12.43, 123.33, 123.36, 123.95, 123.127, 123.128, 123.129, 123.138, 123.175, 123.185

[T] Subsection 2 amended

### **123.31 Application contents.**

Verified applications for the original issuance or the renewal of liquor control licenses shall be submitted electronically, or in a manner prescribed by the administrator, and shall set forth under oath the following information:

1. The name and address of the applicant.
  2. The precise location of the premises for which a license is sought.
  3. The names and addresses of all persons, in the case of a corporation, the officers, directors, and persons owning or controlling ten percent or more of the capital stock thereof, having a financial interest, by way of loan, ownership, or otherwise, in the business.
  4. When required by the administrator, a sketch or drawing of the premises proposed to be licensed, in such form and containing such information as the administrator may require.
  5. A statement whether any person specified in subsection 3 has ever been convicted of any offense against the laws of the United States, or any state or territory thereof, or any political subdivision of any such state or territory.
  6. A statement whether the applicant or any person specified in subsection 3 possesses a federal gambling stamp.
  7. A statement, if required by the local authority indicating whether all designated security employees have received training and certification as provided in section 123.32.
  8. Such other information as the administrator shall require.
- [C35, §1921-f27; C39, §1921.027; C46, 50, 54, 58, 62, 66, 71, §123.27; C73, 75, 77, 79, 81, §123.31]
- 93 Acts, ch 91, §9; 2000 Acts, ch 1201, §2; 2011 Acts, ch 17, §7; 2013 Acts, ch 35, §3
- [T] Unnumbered paragraph 1 amended

**123.32 Action by local authorities and division on applications for liquor control licenses and micro-distilled spirits, wine, and beer permits.**

1. *Filing of application.* An application for a class “A”, class “B”, class “C”, or class “E” liquor control license, for a class “A” micro-distilled spirits permit, 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 123.178, 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 submitted to the division electronically, or in a manner prescribed by the administrator, which shall proceed in the same manner as in the case of an application approved by local authorities.

2. *Action by local authorities.* The local authority shall either approve or disapprove the issuance of a liquor control license, retail wine permit, or retail beer permit, shall endorse its approval or disapproval on the application and shall forward the application with the necessary fee and bond, if required, to the division. There is no limit upon the number of liquor control licenses, retail wine permits, or retail beer permits which may be approved for issuance by local authorities.

3. *Licensed premises for local events.* A local authority may define, by motion of the local authority, licensed premises which shall be used by holders of liquor control licenses, beer permits, and wine permits at festivals, fairs, or celebrations which are sponsored or authorized by the local authority. The licensed premises defined by motion of the local authority shall be used by the holders of five-day or fourteen-day liquor control licenses, or five-day or fourteen-day beer permits only.

4. *Security employee training.* A local authority, as a condition of obtaining and holding a license or permit for on-premises consumption, may require a designated security employee as defined in section 123.3 to be trained and certified in security methods. The training shall include but is not limited to de-escalation techniques, anger management techniques, civil rights or unfair practices awareness as provided in section 216.7, recognition of fake or altered identification, information on laws applicable to the serving of alcohol at a licensed premises, use of force and techniques for safely removing patrons, and instruction on the proper physical restraint methods used against a person who has become combative.

5. *Occupancy rates.* A local authority located in a county with a population that exceeds three hundred thousand persons, as a condition of obtaining and holding a license or permit

for on-premises consumption, shall require the applicant, licensee, or permittee to provide, and update if necessary, the occupancy rate of the licensed premises.

6. *Action by administrator.*

a. Upon receipt of an application having been disapproved by the local authority, the administrator shall notify the applicant that the applicant may appeal the disapproval of the application to the administrator. The applicant shall be notified by certified mail, and the application, the fee, and any bond shall be returned to the applicant.

b. Upon receipt of an application having been approved by the local authority, the division shall make an investigation as the administrator deems necessary to determine that the applicant complies with all requirements for holding a license or permit, and may require the applicant to appear to be examined under oath to demonstrate that the applicant complies with all of the requirements to hold a license or permit. If the administrator requires the applicant to appear and to testify under oath, a record shall be made of all testimony or evidence and the record shall become a part of the application. The administrator may appoint a member of the division or may request an administrative law judge of the department of inspections and appeals to receive the testimony under oath and evidence, and to issue a proposed decision to approve or disapprove the application for a license or permit. The administrator may affirm, reverse, or modify the proposed decision to approve or disapprove the application for the license or permit. If the application is approved by the administrator, the license or permit shall be issued. If the application is disapproved by the administrator, the applicant and the appropriate local authority shall be so notified by certified mail.

7. *Appeal to administrator.* An applicant for a liquor control license, wine permit, or beer permit may appeal from the local authority's disapproval of an application for a license or permit to the administrator. In the appeal the applicant shall be allowed the opportunity to demonstrate in an evidentiary hearing conducted pursuant to chapter 17A that the applicant complies with all of the requirements for holding the license or permit. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to conduct the evidentiary hearing and to render a proposed decision to approve or disapprove the issuance of the license or permit. The administrator may affirm, reverse, or modify the proposed decision. If the administrator determines that the applicant complies with all of the requirements for holding a license or permit, the administrator shall order the issuance of the license or permit. If the administrator determines that the applicant does not comply with the requirements for holding a license or permit, the administrator shall disapprove the issuance of the license or permit.

8. *Judicial review.* The applicant or the local authority may seek judicial review of the action of the administrator in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, petitions for judicial review may be filed in the district court of the county where the premises covered by the application are situated.

9. *Suspension by local authority.* A liquor control licensee or a wine or beer permittee whose license or permit has been suspended or revoked or a civil penalty imposed by a local authority for a violation of this chapter or suspended by a local authority for violation of a local ordinance may appeal the suspension, revocation, or civil penalty to the administrator. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to hear the appeal which shall be conducted in accordance with chapter 17A and to issue a proposed decision. The administrator may review the proposed decision upon the motion of a party to the appeal or upon the administrator's own motion in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A liquor control licensee, wine or beer permittee, or a local authority aggrieved by a decision of the administrator may seek judicial review of the decision pursuant to chapter 17A.

[C35, §1921-f27; C39, §1921.027; C46, 50, 54, 58, 62, 66, 71, §123.27; C73, 75, 77, 79, 81, §123.32]

85 Acts, ch 32, §23; 86 Acts, ch 1246, §743; 88 Acts, ch 1088, §4; 89 Acts, ch 161, §7; 90 Acts, ch 1177, §1; 91 Acts, ch 97, §22; 93 Acts, ch 91, §10 – 12; 2000 Acts, ch 1201, §3; 2003 Acts, ch

44, §114; 2003 Acts, ch 143, §3, 17; 2005 Acts, ch 13, §2; 2008 Acts, ch 1166, §1; 2009 Acts, ch 137, §1; 2010 Acts, ch 1031, §83; 2013 Acts, ch 35, §4

Referred to in §123.31, 123.39, 331.303

[T] Subsection 1 amended

### **123.33 Records.**

Every holder of a liquor control license shall keep a daily record, in printed or electronic format, of the gross receipts of the holder's business. The records required and the premises of the licensee shall be accessible and open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee.

[C35, §1921-f22; C39, §1921.022; C46, 50, 54, 58, 62, 66, 71, §123.22; C73, 75, 77, 79, 81, §123.33]

85 Acts, ch 196, §2; 88 Acts, ch 1241, §8; 2013 Acts, ch 35, §5

[T] Section amended

### **123.34 Expiration — seasonal, five-day, or fourteen-day license or permit.**

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

2. The administrator may issue fourteen-day class "A", class "B", class "C", and class "D" liquor control licenses and fourteen-day class "B" beer permits. A fourteen-day license or permit, if granted, is valid for fourteen consecutive days, but the holder shall not sell on the two Sundays in the fourteen-day period unless the holder qualifies for and obtains the privilege to sell on Sundays contained in section 123.36, subsection 5, and section 123.134, subsection 5.

3. The fee for a fourteen-day liquor license or beer permit is one quarter of the annual fee for that class of liquor license or beer permit. The fee for the privilege to sell on the two Sundays in the fourteen-day period is twenty percent of the price of the fourteen-day liquor license or beer permit.

4. The administrator may issue five-day class "A", class "B", class "C", and class "D" liquor control licenses and five-day class "B" beer permits. A five-day license or permit is valid for five consecutive days, but the holder shall not sell alcoholic beverages on Sunday in the five-day period unless the holder qualifies for and obtains the privilege to sell on Sunday pursuant to sections 123.36 and 123.134.

5. The fee for the five-day liquor control license or beer permit is one-eighth of the annual fee for that class of license or permit. The fee for the privilege to sell on a Sunday in the five-day period is ten percent of the price of the five-day liquor control license or beer permit.

[C35, §1921-f27, 1921-f100; C39, §1921.027, 1921.100; C46, 50, 54, 58, 62, 66, 71, §123.27, 124.6; C73, 75, 77, 79, 81, §123.34; 81 Acts, ch 55, §2]

85 Acts, ch 32, §24; 86 Acts, ch 1237, §7; 90 Acts, ch 1177, §2, 3; 91 Acts, ch 97, §23

**123.35 Simplified renewal procedure — class "E" procedure.** Repealed by 2011 Acts, ch 17, § 16.

### **123.36 Liquor fees — Sunday sales.**

The following fees shall be paid to the division annually for liquor control licenses issued under section 123.30:

1. Class "A" liquor control licenses, the sum of six hundred dollars, except that for class "A" licenses in cities of less than two thousand population, and for clubs of less than two hundred fifty members, the license fee shall be four hundred dollars; however, the fee shall be two hundred dollars for any club which is a post, branch, or chapter of a veterans organization chartered by the Congress of the United States, if the club does not sell or

permit the consumption of alcoholic beverages, wine, or beer on the premises more than one day in any week or more than a total of fifty-two days in a year, and if the application for a license states that the club does not and will not sell or permit the consumption of alcoholic beverages, wine, or beer on the premises more than one day in any week or more than a total of fifty-two days in a year.

2. Class “B” liquor control licenses, the sum as follows:

a. Hotels or motels located within the corporate limits of cities of ten thousand population and over, one thousand three hundred dollars.

b. Hotels and motels located within the corporate limits of cities of over three thousand and less than ten thousand population, one thousand fifty dollars.

c. Hotels and motels located within the corporate limits of cities of three thousand population and less, eight hundred dollars.

d. Hotels and motels located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if a hotel or motel is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

3. Class “C” liquor control licenses, the sum as follows:

a. Commercial establishments located within the corporate limits of cities of ten thousand population and over, one thousand three hundred dollars.

b. Commercial establishments located within the corporate limits of cities of over fifteen hundred and less than ten thousand population, nine hundred fifty dollars.

c. Commercial establishments located within the corporate limits of cities of fifteen hundred population or less, six hundred dollars.

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

4. Class “D” liquor control licenses, the following sums:

a. For watercraft, one hundred fifty dollars.

b. For trains, five hundred dollars.

c. For air common carriers, each company shall pay a base annual fee of five hundred dollars and, in addition, shall quarterly remit to the division an amount equal to seven dollars for each gallon of alcoholic liquor sold, given away, or dispensed in or over this state during the preceding calendar quarter. The class “D” license fee and tax for air common carriers is in lieu of any other fee or tax collected from the carriers in this state for the possession and sale of alcoholic liquor, wine, and beer.

5. Any club, hotel, motel, or commercial establishment holding a liquor control license, 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 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday. A class “D” liquor control licensee may apply for and receive permission to sell and dispense alcoholic beverages to patrons for consumption on the premises only between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday. 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.

6. Special class “C” liquor control licenses, a sum as follows:

a. Commercial establishments located within the corporate limits of cities of ten thousand population and over, four hundred fifty dollars.

b. Commercial establishments located within the corporate limits of cities of over fifteen hundred and less than ten thousand population, three hundred dollars.

c. Commercial establishments located within the corporate limits of cities of fifteen hundred population or less, one hundred fifty dollars.

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

7. 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 5 and those fees collected for each class "E" liquor control license shall be credited to the beer and liquor control fund.

8. a. Class "E" liquor control license, a sum determined as follows:

(1) For licensed premises at which gasoline is not sold, a sum of not less than seven hundred fifty dollars, and not more than seven thousand five hundred dollars as determined on a sliding scale as established by the division taking into account the factors of square footage of the licensed premises, the location of the licensed premises, and the population of the area of the location of the licensed premises.

(2) For licensed premises at which gasoline is sold, a sum equal to the following:

(a) For premises located within the corporate limits of a city with a population of less than one thousand five hundred, three thousand five hundred dollars.

(b) For premises located within the corporate limits of a city with a population of at least one thousand five hundred but less than ten thousand, five thousand dollars.

(c) For premises located within the corporate limits of a city with a population of ten thousand population or more, the greater of five thousand dollars or the amount that would be established pursuant to subparagraph (1) if gasoline were not sold at the premises.

(d) For premises located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed. If there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if the premises is located in an unincorporated town, for purposes of this subparagraph, the unincorporated town shall be treated as if it is a city.

b. Notwithstanding subsection 5, the holder of a class "E" liquor control license may sell alcoholic liquor for consumption off the licensed premises on Sunday subject to section 123.49, subsection 2, paragraph "b".

9. There is imposed a surcharge on the fee for each class "A", "B", or "C" liquor control license equal to thirty percent of the scheduled license fee. The surcharges collected under this subsection shall be deposited in the beer and liquor control fund, and notwithstanding subsection 7, no portion of the surcharges collected under this subsection shall be remitted to the local authority.

[C35, §1921-f28; C39, §1921.028; C46, 50, 54, 58, 62, 66, 71, §123.38; C73, 75, 77, 79, 81, §123.36]

83 Acts, ch 123, §59, 209; 84 Acts, ch 1275, §2; 84 Acts, ch 1312, §6; 85 Acts, ch 32, §26 – 29; 86 Acts, ch 1246, §744; 87 Acts, ch 22, §7, 8; 88 Acts, ch 1241, §9 – 11; 90 Acts, ch 1089, §1; 90 Acts, ch 1175, §7; 91 Acts, ch 245, §1; 93 Acts, ch 91, §14; 94 Acts, ch 1023, §85; 2011 Acts, ch 17, §8

Referred to in §123.34, 123.49, 123.150, 125.59, 331.427

### **123.37 Exclusive power to license and levy taxes — disputed taxes.**

1. The power to establish licenses and permits and levy taxes as imposed in this chapter is vested exclusively with the state. Unless specifically provided, a local authority shall not require the obtaining of a special license or permit for the sale of alcoholic beverages, wine,

or beer at any establishment, or require the obtaining of a license by any person as a condition precedent to the person's employment in the sale, serving, or handling of alcoholic beverages, wine, or beer, within an establishment operating under a license or permit.

2. The administrator may compromise and settle doubtful and disputed claims for taxes imposed under this chapter or for taxes of doubtful collectibility, notwithstanding section 7D.9. The administrator may enter into informal settlements pursuant to section 17A.10 to compromise and settle doubtful and disputed claims for taxes imposed under this chapter. The administrator may make a claim under a licensee's or permittee's penal bond for taxes of doubtful collectibility. Whenever a compromise or settlement is made, the administrator shall make a complete record of the case showing the tax assessed, reports and audits, if any, the licensee's or permittee's grounds for dispute or contest, together with all evidence of the dispute or contest, and the amounts, conditions, and settlement or compromise of the dispute or contest.

3. A licensee or permittee who disputes the amount of tax imposed must pay all tax and penalty pertaining to the disputed tax liability prior to appealing the disputed tax liability to the administrator.

4. The administrator shall adopt rules establishing procedures for payment of disputed taxes imposed under this chapter. If it is determined that the tax is not due in whole or in part, the division shall promptly refund the part of the tax payment which is determined not to be due.

[C73, 75, 77, 79, 81, §123.37]

85 Acts, ch 32, §30; 88 Acts, ch 1153, §2; 89 Acts, ch 252, §1; 93 Acts, ch 91, §15; 94 Acts, ch 1023, §9; 2007 Acts, ch 22, §35

### **123.38 Nature of permit or license — surrender — transfer.**

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

2. Any licensee or permittee, or the licensee's or permittee's executor or administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of the licensee's or permittee's creditors, may voluntarily surrender a license or permit to the division. When a license or permit is surrendered the division shall notify the local authority, and the division or the local authority shall refund to the person surrendering the license or permit, a proportionate amount of the fee received by the division or the local authority for the license or permit as follows: if a license or permit is surrendered during the first three months of the period for which it was issued, the refund shall be three-fourths of the amount of the fee; if surrendered more than three months but not more than six months after issuance, the refund shall be one-half of the amount of the fee; if surrendered more than six months but not more than nine months after issuance, the refund shall be one-fourth of the amount of the fee. No refund shall be made, however, for any special liquor permit, nor for a liquor control license, wine permit, or beer permit surrendered more than nine months after issuance. For purposes of this subsection, any portion of license or permit fees used for the purposes authorized in section 331.424, subsection 1, paragraph "a", subparagraphs (1) and (2), and in section 331.424A, shall not be deemed received either by the division or by a local authority. No refund shall be made to any licensee or permittee, upon the surrender of the license or permit, if there is at the time of surrender, a complaint filed with the division or local authority, charging the licensee or permittee with a violation of this chapter. If upon a hearing on a complaint the license or permit is not revoked or suspended, then the licensee or permittee is eligible, upon surrender of the license or permit, to receive a refund as provided in this section; but if the license or

permit is revoked or suspended upon hearing the licensee or permittee is not eligible for the refund of any portion of the license or permit fee.

3. The local authority may in its discretion authorize a licensee or permittee to transfer the license or permit from one location to another within the same incorporated city, or within a county outside the corporate limits of a city, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law. All transfers authorized, and the particulars of same, shall be reported to the administrator by the local authority. The administrator may by rule establish a uniform transfer fee to be assessed by all local authorities upon licensees or permittees to cover the administrative costs of such transfers, such fee to be retained by the local authority involved.

[C35, §1921-f29, -f100; C39, §1921.029, 1921.100; C46, 50, 54, 58, 62, 66, 71, §123.29, 124.6; C73, 75, 77, 79, 81, §123.38]

85 Acts, ch 32, §31; 95 Acts, ch 206, §5, 12; 2010 Acts, ch 1061, §162

### **123.39 Suspension or revocation of license or permit — civil penalty.**

1. *a.* The administrator or the local authority may suspend a license or permit issued pursuant to this chapter for a period not to exceed one year, revoke the license or permit, or impose a civil penalty not to exceed one thousand dollars per violation. Before suspension, revocation, or imposition of a civil penalty, the license or permit holder shall be given written notice and an opportunity for a hearing. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to conduct the hearing and issue a proposed decision. Upon the motion of a party to the hearing or upon the administrator's own motion, the administrator may review the proposed decision in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A licensee or permittee aggrieved by a decision of the administrator may seek judicial review of the administrator's decision in accordance with chapter 17A.

*b.* A license or permit issued under this chapter may be suspended or revoked, or a civil penalty may be imposed on the license or permit holder by the local authority or the administrator for any of the following causes:

- (1) Misrepresentation of any material fact in the application for the license or permit.
- (2) Violation of any of the provisions of this chapter.
- (3) Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any wine or beer permit, which change was not previously reported to and approved by the local authority and the division.
- (4) An event which would have resulted in disqualification from receiving the license or permit when originally issued.
- (5) Any sale, hypothecation, or transfer of the license or permit.
- (6) The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under this chapter when due.

*c.* A criminal conviction is not a prerequisite to suspension, revocation, or imposition of a civil penalty pursuant to this section. A local authority which acts pursuant to this section or section 123.32 shall notify the division in writing of the action taken, and shall notify the licensee or permit holder of the right to appeal a suspension, revocation, or imposition of a civil penalty to the division. Civil penalties imposed and collected by the local authority under this section shall be retained by the local authority. Civil penalties imposed and collected by the division under this section shall be retained by the division.

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

3. When a liquor license or wine or beer permit is suspended after a hearing as a result of violations of this chapter by the licensee, permittee or the licensee's or permittee's agents or employees, the premises which were licensed by the license or permit shall not be relicensed for a new applicant until the suspension has terminated or time of suspension has elapsed, or ninety days have elapsed since the commencement of the suspension, whichever occurs first. However, this section does not prohibit the premises from being relicensed to a new applicant before the suspension has terminated or before the time of suspension has elapsed or before ninety days have elapsed from the commencement of the suspension, if the premises prior to the time of the suspension had been purchased under contract, and the vendor under that contract had exercised the person's rights under chapter 656 and sold the property to a different person who is not related to the previous licensee or permittee by marriage or within the third degree of consanguinity or affinity and if the previous licensee or permittee does not have a financial interest in the business of the new applicant.

4. If the cause for suspension is a first offense violation of section 123.49, subsection 2, paragraph "h", the administrator or local authority shall impose a civil penalty in the amount of five hundred dollars in lieu of suspension of the license or permit. Local authorities shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the local authority. The division shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the administrator of the division.

[C35, §1921-f32, 1921-f126; C39, §1921.032, 1921.129; C46, 50, 54, 58, 62, §123.32, 124.34; C66, 71, §123.32, 123.102, 124.34; C73, 75, 77, 79, 81, §123.39]

85 Acts, ch 32, §32; 88 Acts, ch 1241, §12; 93 Acts, ch 91, §16, 17; 94 Acts, ch 1017, §2; 2000 Acts, ch 1154, §12; 2002 Acts, ch 1119, §128

Referred to in §123.24, 123.41, 123.46A, 123.50, 123.187

#### **123.40 Effect of revocation.**

Any liquor control licensee, wine permittee, or beer permittee whose license or permit is revoked under this chapter shall not thereafter be permitted to hold a liquor control license, wine permit, or beer permit in the state of Iowa for a period of two years from the date of revocation. A spouse or business associate holding ten percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license, wine permit, or beer permit, and no liquor control license, wine permit, or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two years from the date of revocation. If a license or permit is revoked, the premises which had been covered by the license or permit shall not be relicensed for one year.

[C35, §1921-f32, 1921-f123; C39, §1921.032, 1921.125; C46, 50, 54, 58, 62, 66, 71, §123.32, 124.30; C73, 75, 77, 79, 81, §123.40]

85 Acts, ch 32, §33

Referred to in §123.3, 123.50

#### **123.41 Manufacturer's license.**

1. Each application to obtain or renew a manufacturer's license shall be submitted to the division electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of three hundred fifty dollars payable to the division. The administrator may in accordance with this chapter grant and issue a manufacturer's license, valid for a one-year period after date of issuance, to a manufacturer which shall allow the manufacture, storage, and wholesale disposition and sale of alcoholic liquors to the division and to customers outside of the state.

2. As a condition precedent to the approval and granting of a manufacturer's license, an applicant shall file a statement under oath with the division that the applicant is a bona fide manufacturer of alcoholic liquors, and that the applicant will faithfully observe and comply with all laws, rules, and regulations governing the manufacture and sale of alcoholic liquor.

3. A person who holds an experimental distilled spirits plant permit or its equivalent issued by the alcohol and tobacco tax and trade bureau of the United States department of

the treasury may produce alcohol for use as fuel without obtaining a manufacturer's license from the division.

4. A violation of the requirements of this section shall subject the licensee to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty or suspension or revocation of the license after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A.

[C35, §1921-f36; C39, §1921.036; C46, 50, 54, 58, 62, 66, 71, §123.36; C73, 75, 77, 79, 81, §123.41]

2011 Acts, ch 30, §3; 2013 Acts, ch 35, §6

[T] Subsection 1 amended

#### **123.42 Broker's permit.**

1. Prior to representing or promoting a distiller's alcoholic liquor products in the state, the broker shall submit an application to the division electronically, or in a manner prescribed by the administrator, for a broker's permit. The administrator may in accordance with this chapter issue a broker's permit which shall be valid for one year from the date of issuance unless it is sooner suspended or revoked for a violation of this chapter. A broker's permit is valid throughout the state, and a broker who represents more than one distiller is required to obtain only one broker's permit.

2. The annual fee for a broker's permit is twenty-five dollars.

3. An employee of a broker is not required to apply for or hold a broker's permit.

4. The holder of a distiller's certificate of compliance is not required to appoint a broker to represent its alcoholic liquor products in the state. If the holder of a distiller's certificate of compliance appoints a broker to represent its alcoholic liquor products in the state, the name and address of the broker shall be disclosed on the distiller's application for a certificate of compliance, and the requirements in this section shall apply to the appointed broker.

[C35, §1921-f37; C39, §1921.037; C46, 50, 54, 58, 62, 66, 71, §123.37; C73, 75, 77, 79, 81, §123.42]

94 Acts, ch 1017, §3; 2013 Acts, ch 35, §7

[T] Subsection 1 amended

#### **123.43 License conditions — bond.** Repealed by 2011 Acts, ch 30, § 10.

#### **123.43A Micro-distilled spirits — permit.**

1. Subject to rules of the division, a micro-distillery holding a class "A" micro-distilled spirits permit pursuant to this section may sell or offer for sale micro-distilled spirits. As provided in this section, sales may be made at retail for off-premises consumption when sold on the premises of the micro-distillery that manufactures micro-distilled spirits. All sales shall be made through the state's wholesale distribution system.

2. A micro-distillery shall not sell more than one and one-half liters per person per day, of micro-distilled spirits on the premises of the micro-distillery. In addition, a micro-distillery shall not directly ship micro-distilled spirits for sale at retail. The micro-distillery shall maintain records of individual purchases of micro-distilled spirits at the micro-distillery for three years.

3. A micro-distillery shall not sell micro-distilled spirits other than as permitted in this chapter and shall not allow micro-distilled spirits sold to be consumed upon the premises of the micro-distillery. However, as a part of a micro-distillery tour, micro-distilled spirits of no more than two ounces per person per day may be sampled on the premises where fermented, distilled, or matured, when no charge is made for the sampling.

4. A class "A" micro-distilled spirits permit for a micro-distillery shall be issued and renewed annually upon payment of a fee of five hundred dollars.

5. The sale of micro-distilled spirits to the division for wholesale disposition and sale by the division shall be subject to the requirements of this chapter regarding such disposition and sale.

6. The division shall issue no more than three permits under this section to a person. In addition, a micro-distillery issued a permit under this section shall file with the division all documents filed by the micro-distillery with the alcohol and tobacco tax and trade bureau

of the United States department of the treasury, including all production, storage, and processing reports.

7. Micro-distilled spirits purchased at a micro-distillery shall not be consumed on any property owned, operated, or controlled by a micro-distillery.

2010 Acts, ch 1031, §84; 2010 Acts, ch 1193, §40; 2011 Acts, ch 17, §9; 2011 Acts, ch 30, §4

#### **123.44 Gift of liquors prohibited.**

A manufacturer or broker shall not give away alcoholic liquor at any time in connection with the manufacturer's or broker's business except for testing or sampling purposes only. A manufacturer, vintner, broker, wholesaler, or importer, organized as a corporation pursuant to the laws of this state or any other state, who deals in alcoholic liquor, wine, or beer subject to regulation under this chapter shall not offer or give anything of value to a commission member, official or employee of the division, or directly or indirectly contribute in any manner any money or thing of value to a person seeking a public or appointive office or a recognized political party or a group of persons seeking to become a recognized political party.

[C35, §1921-f39; C39, §1921.039; C46, 50, 54, 58, 62, 66, 71, §123.39; C73, 75, 77, 79, 81, §123.44]

85 Acts, ch 32, §34; 94 Acts, ch 1017, §5

#### **123.45 Limitations on business interests.**

Except as provided in section 123.6, a commission member or division employee shall not, directly or indirectly, individually, or as a member of a partnership or shareholder in a corporation, have any interest in dealing in or in the manufacture of alcoholic liquor, wine, or beer, and shall not receive any kind of profit nor have any interest in the purchase or sale of alcoholic liquor, wine, or beer by persons so authorized under this chapter. However, this provision does not prohibit any member or employee from lawfully purchasing and keeping alcoholic liquor, wine, or beer in the member's or employee's possession for personal use.

A person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages, wine, or beer, or any jobber, representative, broker, employee, or agent of such a person, shall not directly or indirectly supply, furnish, give, or pay for any furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of business of a licensee or permittee authorized under this chapter to sell at retail; nor shall the person directly or indirectly extend any credit for alcoholic beverages or beer or pay for any such license or permit, nor directly or indirectly be interested in the ownership, conduct, or operation of the business of another licensee or permittee authorized under this chapter to sell at retail, nor hold a retail liquor control license or retail wine or beer permit. However, a person engaged in the wholesaling of beer or wine may sell only disposable glassware, which is constructed of paper, paper laminated, or plastic materials and designed primarily for personal consumption on a one-time usage basis, to retailers for use within the premises of licensed establishments, for an amount which is greater than or equal to an amount which represents the greater of either the amount paid for the disposable glassware by the supplier or the amount paid for the disposable glassware by the wholesaler. Also, a person engaged in the business of manufacturing beer may sell beer at retail for consumption on or off the premises of the manufacturing facility and, notwithstanding any other provision of this chapter or the fact that a person is the holder of a class "A" beer permit, may be granted not more than one class "B" beer permit as defined in section 123.124 for that purpose. A licensee or permittee who permits or assents to or is a party in any way to a violation or infringement of this section is guilty of a violation of this section.

[C35, §1921-f40, 1921-f115; C39, §1921.040, 1921.117; C46, 50, 54, 58, 62, 66, 71, §123.40, 124.22; C73, 75, 77, 79, 81, §123.45; 81 Acts, ch 57, §1; 82 Acts, ch 1024, §2]

85 Acts, ch 32, §35; 88 Acts, ch 1241, §13; 91 Acts, ch 24, §1

#### **123.46 Consumption or intoxication in public places — notifications — chemical tests — exoneration.**

1. As used in this section unless the context otherwise requires:

a. “*Arrest*” means the same as defined in section 804.5 and includes taking into custody pursuant to section 232.19.

b. “*Chemical test*” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the commissioner of public safety.

c. “*Peace officer*” means the same as defined in section 801.4.

2. A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending a public or private school-related function. A person shall not be intoxicated in a public place. A person violating this subsection is guilty of a simple misdemeanor.

3. A person shall not simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device approved by the commissioner of public safety for testing a sample of a person’s breath to determine the person’s blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person’s blood, breath, or urine established by the results of a chemical test performed within two hours after the person’s arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

5. a. A peace officer shall make a reasonable effort to identify a person under the age of eighteen who violates this section and refer the person to juvenile court.

b. A juvenile court officer shall notify the person’s custodial parent, legal guardian, or custodian of the violation. In addition, the juvenile court officer shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district or the superintendent’s designee, or the authorities in charge of the nonpublic school, of the violation. A reasonable attempt to notify the person includes, but is not limited to, a telephone call or notice by first-class mail.

6. Upon the expiration of two years following conviction for a violation of this section, a person may petition the court to expunge the conviction, and if the person has had no other criminal convictions, other than simple misdemeanor violations of chapter 321 during the two-year period, the conviction shall be expunged as a matter of law. The court shall enter an order that the record of the conviction be expunged by the clerk of the district court. Notwithstanding section 692.2, after receipt of notice from the clerk of the district court that a record of conviction has been expunged, the record of conviction shall be removed from the criminal history data files maintained by the department of public safety.

[C35, §1921-f42, 1921-f127; C39, §1921.042, 1921.132; C46, 50, 54, 58, 62, 66, 71, §123.42, 124.37; C73, 75, 77, 79, 81, §123.46]

85 Acts, ch 32, §36; 86 Acts, ch 1067, §1; 89 Acts, ch 225, §10; 92 Acts, ch 1231, §7; 2000 Acts, ch 1138, §1; 2010 Acts, ch 1044, §1, 2; 2010 Acts, ch 1071, §1; 2010 Acts, ch 1128, §1; 2011 Acts, ch 17, §10

Referred to in §125.34, 232.22, 232.52

### **123.46A Delivery of alcoholic beverages by retailers.**

1. Licensees and permittees authorized to sell alcoholic liquor, wine, or beer in original unopened containers for consumption off the licensed premises may deliver alcoholic liquor, wine, or beer to a home or other designated location in this state. Deliveries shall be limited to alcoholic beverages authorized by the licensee’s or permittee’s license or permit.

2. All deliveries of alcoholic liquor, wine, or beer shall be subject to the following requirements and restrictions:

a. Payment for the alcoholic liquor, wine, or beer shall be received on the licensed premises at the time of order.

b. Alcoholic liquor, wine, or beer delivered to a person shall be for personal use and not for resale.

c. Deliveries shall only be made to persons in this state who are twenty-one years of age or older.

d. Deliveries shall not be made to a person who is intoxicated or is simulating intoxication.

e. Deliveries shall occur between 6:00 a.m. and 10:00 p.m. Monday through Saturday, and between 8:00 a.m. and 10:00 p.m. Sunday.

f. Delivery of alcoholic liquor, wine, or beer shall be made by the licensee or permittee, or the licensee's or permittee's employee, and not by a third party.

g. Delivery personnel shall be twenty-one years of age or older.

h. Deliveries shall be made in a vehicle owned, leased, or under the control of the licensee or permittee.

i. Valid proof of the recipient's identity and age shall be obtained at the time of delivery, and the signature of a person twenty-one years of age or older shall be obtained as a condition of delivery.

j. Licensees and permittees shall maintain records of deliveries which include the quantity delivered, the recipient's name and address, and the signature of the recipient of the alcoholic liquor, wine, or beer. The records shall be maintained on the licensed premises for a period of three years.

3. A violation of this section or any other provision of this chapter shall subject the licensee or permittee to the penalty provisions of section 123.39.

4. Nothing in this section shall impact the direct shipment of wine as regulated by section 123.187.

2011 Acts, ch 30, §5

**123.47 Persons under eighteen years of age, persons eighteen, nineteen, or twenty years of age, and persons twenty-one years of age and older.**

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

2. A person or persons under legal age shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence, and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

3. a. A person who is eighteen, nineteen, or twenty years of age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits the following:

(1) A simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 7.

(2) A second offense shall be a simple misdemeanor punishable by a fine of five hundred dollars. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation or the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

(3) A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

b. The court may, in its discretion, order the person who is under legal age to perform community service work under section 909.3A, of an equivalent value to the fine imposed under this section.

c. If the person who commits a violation of this section is under the age of eighteen, the matter shall be disposed of in the manner provided in chapter 232.

4. Except as otherwise provided in subsections 5 and 6, a person who is of legal age,

other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section commits a serious misdemeanor punishable by a minimum fine of five hundred dollars.

5. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section which results in serious injury to any person commits an aggravated misdemeanor.

6. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies alcoholic liquor, wine, or beer to a person who is under legal age in violation of this section which results in the death of any person commits a class “D” felony.

7. Upon the expiration of two years following conviction for a violation of subsection 2 or of a similar local ordinance, a person may petition the court to expunge the conviction, and if the person has had no other criminal convictions, other than local traffic violations or simple misdemeanor violations of chapter 321 during the two-year period, the conviction shall be expunged as a matter of law. The court shall enter an order that the record of the conviction be expunged by the clerk of the district court. Notwithstanding section 692.2, after receipt of notice from the clerk of the district court that a record of conviction has been expunged for a violation of subsection 2, the record of conviction shall be removed from the criminal history data files maintained by the department of public safety. An expunged conviction shall not be considered a prior offense for purposes of enhancement under subsection 3 or under a local ordinance unless the new violation occurred prior to entry of the order of expungement.

[C35, §1921-f43; C39, §1921.043; C46, 50, 54, 58, 62, §123.43; C66, 71, §123.43, 125.33; C73, 75, 77, 79, 81, §123.47]

85 Acts, ch 32, §37; 92 Acts, ch 1231, §8; 94 Acts, ch 1105, §1; 94 Acts, ch 1172, §2; 95 Acts, ch 191, §3; 97 Acts, ch 126, §2; 99 Acts, ch 153, §1; 2005 Acts, ch 105, §1; 2010 Acts, ch 1071, §2; 2010 Acts, ch 1128, §2

Referred to in §123.47B, 135B.34, 135C.33, 137C.25C, 232.2, 232.19, 232.22, 232.52, 321.216B, 321.284, 321.284A, 805.8C(7)

**123.47A** Repealed by 97 Acts, ch 126, § 54.

**123.47B Parental and school notification — persons under eighteen years of age.**

1. A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of alcoholic liquor, wine, or beer in violation of section 123.47 and refer the person to juvenile court.

2. The juvenile court officer shall notify the person’s custodial parent, legal guardian, or custodian of the violation. In addition, the juvenile court shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent’s designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the possession. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first-class mail.

90 Acts, ch 1251, §4; 95 Acts, ch 191, §4; 97 Acts, ch 126, §3; 2010 Acts, ch 1128, §3

**123.48 Seizure of false or altered driver’s license or nonoperator identification card.**

1. If a liquor control licensee or wine or beer permittee or an employee of the licensee or permittee has a reasonable belief based on factual evidence that a driver’s license as defined in section 321.1, subsection 20A, or nonoperator identification card issued pursuant to section 321.190 offered by a person who wishes to purchase an alcoholic beverage at the licensed premises is altered or falsified or belongs to another person, the licensee, permittee, or employee may retain the driver’s license or nonoperator identification card. Within twenty-four hours, the card shall be delivered to the appropriate city or county law enforcement agency of the jurisdiction in which the licensed premises is located. When the card is delivered to the appropriate law enforcement agency, the licensee shall file a written report of the circumstances under which the card was retained. The local law enforcement agency may investigate whether a violation of section 321.216, 321.216A, or 321.216B has occurred. If an investigation is not initiated or a probable cause is not established by the

local law enforcement agency, the driver's license or nonoperator identification card shall be delivered to the person to whom it was issued. The local law enforcement agency may forward the card with the report to the department of transportation for investigation, in which case, the department may investigate whether a violation of section 321.216, 321.216A, or 321.216B has occurred. The department of transportation shall return the card to the person to whom it was issued if an investigation is not initiated or a probable cause is not established.

2. Upon taking possession of an identification card as provided in subsection 1, a receipt for the card with the date and hour of seizure noted shall be provided to the person from whom the card was seized.

3. A liquor control licensee or wine or beer permittee or an employee of the licensee or permittee is not subject to criminal prosecution for, or to civil liability for damages alleged to have resulted from, the retention and delivery of a driver's license or a nonoperator identification card which is taken pursuant to subsections 1 and 2. This section shall not be construed to relieve a licensee, permittee, or employee of the licensee or permittee from civil liability for damages resulting from the use of unreasonable force in obtaining the altered or falsified driver's license or identification card or the driver's license or identification card believed to belong to another person.

94 Acts, ch 1105, §3; 96 Acts, ch 1090, §1; 98 Acts, ch 1073, §9, 12

#### **123.49 Miscellaneous prohibitions.**

1. A person shall not sell, dispense, or give to an intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

a. A person other than a person required to hold a license or permit under this chapter who dispenses or gives an alcoholic beverage, wine, or beer in violation of this subsection is not civilly liable to an injured person or the estate of a person for injuries inflicted on that person as a result of intoxication by the consumer of the alcoholic beverage, wine, or beer.

b. The general assembly declares that this subsection shall be interpreted so that the holding of *Clark v. Mincks*, 364 N.W.2d. 226 (Iowa 1985) is abrogated in favor of prior judicial interpretation finding the consumption of alcoholic beverages, wine, or beer rather than the serving of alcoholic beverages, wine, or beer as the proximate cause of injury inflicted upon another by an intoxicated person.

2. A person or club holding a liquor control license or retail wine or beer permit under this chapter, and the person's or club's agents or employees, shall not do any of the following:

a. Knowingly permit any gambling, except in accordance with chapter 99B, 99D, 99F, or 99G, or knowingly permit solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

b. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

c. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, nor to retail sales by the managing entity of a convention center, civic center, or events center.

d. (1) Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the division, and except mixed drinks or cocktails mixed on the premises for immediate consumption on the licensed premises or as otherwise provided by this paragraph "d". This prohibition does not apply to common carriers holding a class "D" liquor control license.

(2) Mixed drinks or cocktails mixed on the premises that are not for immediate consumption may be consumed on the licensed premises subject to the requirements of this subparagraph pursuant to rules adopted by the division. The rules shall provide that the mixed drinks or cocktails be stored, for no longer than seventy-two hours, in a labeled

container in a quantity that does not exceed three gallons. The rules shall also provide that added flavors and other nonbeverage ingredients included in the mixed drinks or cocktails shall not include hallucinogenic substances or added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine. In addition, the rules shall require that the licensee keep records as to when the contents in a particular container were mixed and the recipe used for that mixture.

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

f. Employ a person under eighteen years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

g. Allow any person other than the licensee, permittee, or employees of the licensee or permittee, to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as permitted in section 123.95. This paragraph does not apply to the lodging quarters of a class "B" liquor control licensee or wine or beer permittee, or to common carriers holding a class "D" liquor control license.

h. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.

i. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

j. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit. However, the absence of security personnel on the licensed premises is insufficient, without additional evidence, to prove that criminal activity occurring on the licensed premises was knowingly permitted in violation of this paragraph "j". For purposes of this paragraph "j", "premises" includes parking lots and areas adjacent to the premises of a liquor licensee or permittee authorized to sell alcoholic beverages for consumption on the licensed premises and used by patrons of the liquor licensee or permittee.

k. Sell or dispense any wine on the premises covered by the permit or permit the consumption on the premises between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a holder of a wine permit authorized to sell wine on Sunday may sell or dispense wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

l. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

3. A person under legal age shall not misrepresent the person's age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine, or beer from any licensee or permittee. If any person under legal age misrepresents the person's age, and the licensee or permittee establishes that the licensee or permittee made reasonable inquiry to determine whether the prospective purchaser was over legal age, the licensee or permittee is not guilty of selling alcoholic liquor, wine, or beer to a person under legal age.

4. No privilege of selling alcoholic liquor, wine, or beer on Sunday as provided in section 123.36, subsection 5, and section 123.134, subsection 5, shall be granted to a club or other organization which places restrictions on admission or membership in the club or organization on the basis of sex, race, religion, or national origin. However, the privilege may be granted to a club or organization which places restrictions on membership on the basis of sex, if the club or organization has an auxiliary organization open to persons of the other sex.

[C35, §1921-f46, 1921-f114, 1921-g3; C39, §1921.046, 1921.115, 1921.116; C46, 50, 54, 58, 62, 66, 71, §123.46, 124.20, 124.21; C73, 75, 77, 79, 81, §123.49]

84 Acts, ch 1275, §3; 85 Acts, ch 32, §38 – 42; 86 Acts, ch 1002, §5; 86 Acts, ch 1211, §11; 89 Acts, ch 67, §26; 90 Acts, ch 1175, §8; 91 Acts, ch 245, §2, 3; 94 Acts, ch 1172, §4; 97 Acts, ch

126, §4; 2003 Acts, ch 178, §108, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1155, §1; 2006 Acts, ch 1033, §1; 2010 Acts, ch 1128, §4; 2012 Acts, ch 1138, §22

Referred to in §123.36, 123.39, 123.50, 123.50A, 123.92, 123.134, 123.150, 602.6405, 805.8C(2)

[P] Civil liability for dispensing or sale and service to intoxicated persons; see §123.92

[P] For scheduled fines applicable to violations of subsection 2, paragraph h, see §805.8C(2)

### 123.50 Criminal and civil penalties.

1. Any person who violates any of the provisions of section 123.49, except section 123.49, subsection 2, paragraph “h”, or who fails to affix upon sale, defaces, or fails to record a keg identification sticker or produce a record of keg identification stickers pursuant to section 123.138, shall be guilty of a simple misdemeanor. A person who violates section 123.49, subsection 2, paragraph “h”, commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 2.

2. The conviction of any liquor control licensee, wine permittee, or beer permittee for a violation of any of the provisions of section 123.49, subject to subsection 3 of this section, is grounds for the suspension or revocation of the license or permit by the division or the local authority. However, if any liquor control licensee is convicted of any violation of subsection 2, paragraph “a”, “d”, or “e”, of that section, or any wine or beer permittee is convicted of a violation of paragraph “a” or “e” of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division.

3. If any licensee, wine permittee, beer permittee, or employee of a licensee or permittee is convicted or found in violation of section 123.49, subsection 2, paragraph “h”, the administrator or local authority shall, in addition to criminal penalties fixed for violations by this section, assess a civil penalty as follows:

a. A first violation shall subject the licensee or permittee to a civil penalty in the amount of five hundred dollars. Failure to pay the civil penalty as ordered under section 123.39 shall result in automatic suspension of the license or permit for a period of fourteen days.

b. A second violation within two years shall subject the licensee or permittee to a thirty-day suspension and a civil penalty in the amount of one thousand five hundred dollars.

c. A third violation within three years shall subject the licensee or permittee to a sixty-day suspension and a civil penalty in the amount of one thousand five hundred dollars.

d. A fourth violation within three years shall result in revocation of the license or permit.

e. For purposes of this subsection:

(1) The date of any violation shall be used in determining the period between violations.

(2) Suspension shall be limited to the specific license or permit for the premises found in violation.

(3) Notwithstanding section 123.40, revocation shall be limited to the specific license or permit found in violation and shall not disqualify a licensee or permittee from holding a license or permit at a separate location.

4. In addition to any other penalties imposed under this chapter, the division shall assess a civil penalty up to the amount of five thousand dollars upon a class “E” liquor control licensee when the class “E” liquor license is revoked for a violation of section 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division.

5. If an employee of a licensee or permittee violates section 123.49, subsection 2, paragraph “h”, the licensee or permittee shall not be assessed a penalty under subsection 3, and the violation shall be deemed not to be a violation of section 123.49, subsection 2, paragraph “h”, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 3, if the employee holds a valid certificate of completion of the alcohol compliance employee training program pursuant to section 123.50A at the time of the violation, and if the violation involves selling, giving, or otherwise supplying any alcoholic beverage, wine, or beer to a person between the ages of eighteen and twenty years of age. A violation involving a person under the age of eighteen years of age shall not qualify for the bar against assessment of a penalty pursuant to subsection 3, for a violation of section 123.49, subsection 2, paragraph “h”. A licensee or permittee may assert only once in a four-year period the bar under this subsection against assessment of a

penalty pursuant to subsection 3, for a violation of section 123.49, subsection 2, paragraph “h”, that takes place at the same place of business location.

[C35, §1921-f46, 1921-f127; C39, §1921.046, 1921.132; C46, 50, 54, 58, 62, 66, 71, §123.46, 124.37; C73, 75, 77, 79, 81, §123.50]

84 Acts, ch 1275, §4; 84 Acts, ch 1292, §1; 85 Acts, ch 32, §43; 86 Acts, ch 1246, §745; 88 Acts, ch 1088, §6; 88 Acts, ch 1241, §14; 89 Acts, ch 252, §2; 93 Acts, ch 91, §18; 94 Acts, ch 1172, §5; 97 Acts, ch 126, §5, 6; 98 Acts, ch 1204, §1, 2; 2001 Acts, ch 137, §5; 2004 Acts, ch 1008, §1; 2007 Acts, ch 46, §1; 2011 Acts, ch 30, §6; 2013 Acts, ch 30, §23

Referred to in §99B.10B, 99B.14, 123.141

[P] License or permit suspension upon revocation of amusement device permit; §99B.10B

[T] Subsection 1 amended

### **123.50A Alcohol compliance employee training program.**

1. If sufficient funding is appropriated, the division shall develop an alcohol compliance employee training program, not to exceed two hours in length for employees and prospective employees of licensees and permittees, to inform the employees about state and federal liquor laws and regulations regarding the sale of alcoholic liquor, wine, or beer to persons under legal age, and compliance with and the importance of laws regarding the sale of alcoholic liquor, wine, or beer to persons under legal age. In developing the alcohol compliance employee training program, the division may consult with stakeholders who have expertise in the laws and regulations regarding the sale of alcoholic liquor, wine, or beer to persons under legal age.

2. The alcohol compliance employee training program shall be made available to employees and prospective employees of licensees and permittees at no cost to the employee, the prospective employee, or the licensee or permittee, and in a manner which is as convenient and accessible to the extent practicable throughout the state so as to encourage attendance. Contingent upon the availability of specified funds for provision of the program, the division shall schedule the program on at least a monthly basis and the program shall be available at a location in at least a majority of counties.

3. Upon completion of the alcohol compliance employee training program, an employee or prospective employee shall receive a certificate of completion, which shall be valid for a period of two years, unless the employee or prospective employee is convicted of a violation of section 123.49, subsection 2, paragraph “h”, in which case the certificate shall be void.

4. The division shall also offer periodic continuing employee training and recertification for employees who have completed initial training and received an initial certificate of completion as part of the alcohol compliance employee training program.

2011 Acts, ch 30, §7

### **123.51 Advertisements for alcoholic liquor, wine, or beer.**

1. No signs or other matter advertising any brand of alcoholic liquor, beer, or wine shall be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail. This subsection does not prohibit the use of signs or other matter inside a fence or similar enclosure which wholly or partially surrounds the licensed premises.

2. Violation of this section is a simple misdemeanor.

[C35, §1921-f47; C39, §1921.047; C46, 50, 54, 58, 62, 66, 71, §123.47; C73, 75, 77, 79, 81, §123.51]

85 Acts, ch 32, §44; 86 Acts, ch 1246, §746; 87 Acts, ch 22, §9

### **123.52 Prohibited sale.**

No person not expressly authorized by this chapter to deal in alcoholic liquors shall within the state keep for sale or offer for sale anything which is capable of being mistaken for a package containing alcoholic liquor and is either labeled or branded with the name of any kind of alcoholic liquor, whether the same contains any alcoholic liquor or not.

[C35, §1921-f48; C39, §1921.048; C46, 50, 54, 58, 62, 66, 71, §123.48; C73, 75, 77, 79, 81, §123.52]

**123.53 Beer and liquor control fund — allocations to substance abuse — use of civil penalties.**

1. There shall be established within the office of the treasurer of state a fund to be known as the beer and liquor control fund. The fund shall consist of any moneys appropriated by the general assembly for deposit in the fund and moneys received from the sale of alcoholic liquors by the division, from the issuance of permits and licenses, and of moneys and receipts received by the division from any other source.

2. a. The director of the department of administrative services shall periodically transfer from the beer and liquor control fund to the general fund of the state those revenues of the division which are not necessary for the purchase of liquor for resale by the division, or for remittances to local authorities or other sources as required by this chapter, or for other obligations and expenses of the division which are paid from such fund.

b. All moneys received by the division from the issuance of vintner's certificates of compliance and wine permits shall be transferred by the director of the department of administrative services to the general fund of the state.

3. Notwithstanding subsection 2, if gaming revenues under sections 99D.17 and 99F.11 are insufficient in a fiscal year to meet the total amount of such revenues directed to be deposited in the revenue bonds debt service fund and the revenue bonds federal subsidy holdback fund during the fiscal year pursuant to section 8.57, subsection 5, paragraph "e", the difference shall be paid from moneys deposited in the beer and liquor control fund prior to transfer of such moneys to the general fund pursuant to subsection 2 and prior to the transfer of such moneys pursuant to subsections 5 and 6. If moneys deposited in the beer and liquor control fund are insufficient during the fiscal year to pay the difference, the remaining difference shall be paid from moneys deposited in the beer and liquor control fund in subsequent fiscal years as such moneys become available.

4. The treasurer of state shall, each quarter, prepare an estimate of the gaming revenues and of the moneys to be deposited in the beer and liquor control fund that will become available during the remainder of the appropriate fiscal year for the purposes described in subsection 3. The department of management, the department of inspections and appeals, and the department of commerce shall take appropriate actions to provide that the sum of the amount of gaming revenues available to be deposited into the revenue bonds debt service fund and the revenue bonds federal subsidy holdback fund during a fiscal year and the amount of moneys to be deposited in the beer and liquor control fund available to be deposited into the revenue bonds debt service fund and the revenue bonds federal subsidy holdback fund during such fiscal year will be sufficient to cover any anticipated deficiencies.

5. After any transfer provided for in subsection 3 is made, the department of commerce shall transfer into a special revenue account in the general fund of the state, a sum of money at least equal to seven percent of the gross amount of sales made by the division from the beer and liquor control fund on a monthly basis but not less than nine million dollars annually. Of the amounts transferred, two million dollars, plus an additional amount determined by the general assembly, shall be appropriated to the Iowa department of public health for use by the staff who administer the comprehensive substance abuse program under chapter 125 for substance abuse treatment and prevention programs. Any amounts received in excess of the amounts appropriated to the Iowa department of public health for use by the staff who administer the comprehensive substance abuse program under chapter 125 shall be considered part of the general fund balance.

6. After any transfers provided for in subsections 3 and 5, the department of commerce shall transfer to the division from the beer and liquor control fund and before any other transfer to the general fund, an amount sufficient to pay the costs incurred by the division for collecting and properly disposing of the liquor containers.

7. Civil penalties imposed and collected by the division shall be credited to the general fund of the state. The moneys from the civil penalties shall be used by the division, subject to appropriation by the general assembly, for the purposes of providing educational programs, information and publications for alcoholic beverage licensees and permittees, local authorities, and law enforcement agencies regarding the laws and rules which govern

the alcoholic beverages industry, and for promoting compliance with alcoholic beverage laws and rules.

[C35, §1921-f50; C39, §1921.050; C46, 50, 54, 58, 62, 66, 71, §123.50; C73, 75, 77, 79, 81, §123.53]

85 Acts, ch 32, §45 – 47; 86 Acts, ch 1246, §603, 747; 88 Acts, ch 1151, §1; 88 Acts, ch 1250, §10; 92 Acts, ch 1242, §25; 93 Acts, ch 91, §19; 99 Acts, ch 199, §32; 2003 Acts, ch 145, §286; 2005 Acts, ch 179, §144, 146; 2006 Acts, ch 1010, §51; 2007 Acts, ch 126, §23; 2009 Acts, ch 41, §263; 2009 Acts, ch 173, §31, 32, 36; 2010 Acts, ch 1184, §92; 2011 Acts, ch 34, §35; 2012 Acts, ch 1021, §136

Referred to in §8.57, 24.14, 123.24, 123.183

#### **123.54 Appropriations.**

Division appropriations shall be paid by the treasurer of state upon the orders of the administrator, in such amounts and at such times as the administrator deems necessary to carry on operations in accordance with the terms of this chapter.

[C35, §1921-f52; C39, §1921.052; C46, 50, 54, 58, 62, 66, 71, §123.52; C73, 75, 77, 79, 81, §123.54]

#### **123.55 Annual report.**

The commission shall cause to be prepared an annual report to the governor of the state, ending with June 30 of each fiscal year, on the operation and financial position of the division for the preceding fiscal year. The report shall include but is not limited to the following information:

1. Amount of profit or loss from division operations.
2. The current balance of the beer and liquor control fund, and the amount transferred from the fund to the treasurer of state during the period covered by the report.
3. All other funds on hand and the source from which derived.
4. The total quantity and particular kind of alcoholic liquor sold.
5. The increase or decrease of liquor sales from the previous reporting period.
6. The number of liquor control licenses, wine permits, and beer permits issued, by class, the number in effect on the last day included in the report, and the number which have been suspended or revoked during the period covered by the report.
7. Amount of fees paid to the division from liquor control licenses, wine permits, and beer permits, in gross, and the amount of liquor control license fees returned to local subdivisions of government as provided under this chapter.

[C35, §1921-f53; C39, §1921.053; C46, 50, 54, 58, 62, 66, 71, §123.53; C73, 75, 77, 79, 81, §123.55]

85 Acts, ch 32, §48; 86 Acts, ch 1246, §748; 2013 Acts, ch 35, §22

[T] Unnumbered paragraph 1 amended

#### **123.56 Native wines.**

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. Notwithstanding any other provision of this chapter, manufacturers of native wine may purchase and possess grape brandy from the division for the sole purpose of manufacturing wine.

2. Native wine may be sold at retail for off-premises consumption when sold on the premises of the manufacturer, or in a retail establishment operated by the manufacturer. Sales may also be made to class “A” or retail wine permittees or liquor control licensees as authorized by the class “A” wine permit. A manufacturer of native wines shall not sell the wines other than as permitted in this chapter and shall not allow wine sold to be consumed upon the premises of the manufacturer. However, prior to sale native wines may be sampled on the premises where made, when no charge is made for the sampling. A person may manufacture native wine for consumption on the manufacturer’s premises, when the wine or any part of it is not manufactured for sale.

3. A manufacturer of native wines may ship wine in closed containers to individual

purchasers inside this state by obtaining a wine direct shipper license pursuant to section 123.187.

4. Notwithstanding section 123.179, subsection 1, a class “A” wine permit for a native wine manufacturer shall be issued and renewed annually upon payment of a fee of twenty-five dollars which shall be in lieu of any other license fee required by this chapter. The class “A” permit shall only allow the native wine manufacturer to sell, keep, or offer for sale and deliver the manufacturer’s native wines as provided under this section.

5. 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.

6. Notwithstanding any other provision of this chapter, a person employed by a class “A” native wine permittee may be employed by a brewery with a class “A” native beer permit provided the person has no ownership interest in either licensed premises.

7. A manufacturer may use the space and equipment of another manufacturer for the purpose of manufacturing native wine, provided that such an alternating proprietorship arrangement is approved by the alcohol and tobacco tax and trade bureau of the United States department of the treasury. A separate class “A” wine permit shall be issued to each manufacturer, and each manufacturer shall be subject to the provisions of this chapter and the rules of the division. Notwithstanding subsection 5, not more than one class “C” native wine permit shall be issued to a premises with alternating proprietorships.

8. For the purposes of this section, “*manufacturer*” includes only those persons who process in Iowa the fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients, by fermentation into wines.

[C35, §1921-f56; C39, §1921.056; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.56]

85 Acts, ch 32, §49; 85 Acts, ch 198, §1; 2003 Acts, ch 143, §4, 5, 17; 2009 Acts, ch 73, §1; 2011 Acts, ch 17, §11; 2011 Acts, ch 30, §8

Referred to in §123.3

#### **123.57 Examination of accounts.**

The financial condition and transactions of all offices, departments, warehouses, and depots of the division shall be examined at least once each year by the state auditor and at shorter periods if requested by the administrator, governor, commission, or the general assembly’s standing committees on government oversight.

[C35, §1921-f57; C39, §1921.057; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.57]

86 Acts, ch 1246, §749; 2011 Acts, ch 30, §9

#### **123.58 Auditing.**

All provisions of sections 11.6, 11.11, 11.14, 11.21, 11.31, and 11.41, relating to auditing of financial records of governmental subdivisions which are not inconsistent with this chapter are applicable to the division and its offices, warehouses, and depots.

[C35, §1921-f58; C39, §1921.058; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.58]

86 Acts, ch 1246, §750; 89 Acts, ch 264, §4; 2011 Acts, ch 75, §34

#### **123.59 Bootlegging.**

Any person who, acting individually, or through another acting for the person, keeps or carries on the person, or in a vehicle, or leaves in a place for another to secure, any alcoholic liquor, wine, or beer, with intent to sell or dispense the liquor, wine, or beer, by gift or otherwise in violation of law, or who, within this state, in any manner, directly or indirectly, solicits, takes, or accepts an order for the purchase, sale, shipment, or delivery of alcoholic liquor, wine, or beer in violation of law, or aids in the delivery and distribution of alcoholic liquor, wine, or beer so ordered or shipped, or who in any manner procures for, sells, or gives alcoholic liquor, wine, or beer to a person under legal age, for any purpose except as

authorized and permitted in this chapter, is a bootlegger and subject to the general penalties provided by this chapter.

[C51, §924 – 928; R60, §1559, 1562, 1563, 1583, 1587; C73, §1523, 1540 – 1542, 1555; C97, §2382; SS15, §2382, 2461-a; C24, 27, 31, §1927; C35, §1921-f59, 1927; C39, §1921.059, 1927; C46, 50, 54, 58, 62, 66, 71, §123.59, 125.7; C73, 75, 77, 79, 81, §123.59]

85 Acts, ch 32, §50; 85 Acts, ch 67, §16

Referred to in §123.50

### **123.60 Nuisances.**

The premises where the unlawful manufacture or sale, or keeping with intent to sell, use or give away, of alcoholic liquors, wine, or beer is carried on, and any vehicle or other means of conveyance used in transporting liquor, wine, or beer in violation of law, and the furniture, fixtures, vessels and contents, kept or used in connection with such activities are nuisances and shall be abated as provided in this chapter.

[C51, §935; R60, §1564; C73, §1543; C97, §2384; C24, 27, 31, §1929; C35, §1921-f60, 1929; C39, §1921.060, 1929; C46, 50, 54, 58, 62, 66, 71, §123.60, 125.9; C73, 75, 77, 79, 81, §123.60]

85 Acts, ch 32, §51

Referred to in §123.61

[P] Nuisances in general, chapter 657

### **123.61 Penalty.**

Any person who erects, establishes, or uses any premises for any of the purposes prohibited in section 123.60, is guilty of nuisance and shall be subject to the general penalties provided by this chapter.

[C51, §935; R60, §1564; C73, §1543; C97, §2384; C24, 27, 31, §1930; C35, §1921-f61, 1930; C39, §1921.061, 1930; C46, 50, 54, 58, 62, 66, 71, §123.61, 125.10; C73, 75, 77, 79, 81, §123.61]

### **123.62 Injunction.**

Actions to enjoin nuisances shall be brought in equity in the name of the state by the county attorney who shall prosecute the same to judgment.

[R60, §1564; C73, §1543; C97, §2405, 2406; S13, §2406; SS15, §2405; C24, 27, 31, §2017; C35, §1921-f62, 2017; C39, §1921.062, 2017; C46, 50, 54, 58, 62, 66, 71, §123.62, 128.1; C73, 75, 77, 79, 81, §123.62]

Referred to in §331.756(25)

### **123.63 Temporary writ.**

In such action, the court shall, upon the presentation of a petition therefor, allow a temporary writ of injunction without bond, if it shall be made to appear to the satisfaction of the court by evidence in the form of affidavits, depositions, oral testimony or otherwise, that the nuisance complained of exists.

[R60, §1564; C73, §1543; C97, §2405; SS15, §2405; C24, 27, 31, §2018; C35, §1921-f63, 2018; C39, §1921.063, 2018; C46, 50, 54, 58, 62, 66, 71, §123.63, 128.2; C73, 75, 77, 79, 81, §123.63]

### **123.64 Notice.**

Three days' notice in writing shall be given the defendant of the hearing of the application, and if then continued at the defendant's instance the writ as petitioned for shall be granted as a matter of course.

[C97, §2405; SS15, §2405; C24, 27, 31, §2019; C35, §1921-f64, 2019; C39, §1921.064, 2019; C46, 50, 54, 58, 62, 66, 71, §123.64, 128.3; C73, 75, 77, 79, 81, §123.64]

90 Acts, ch 1168, §26

### **123.65 Scope of injunction.**

When an injunction has been granted, it shall be binding upon the defendant throughout the state and any violation of the provisions of this chapter anywhere within the state shall be punished as a contempt as herein provided.

[C97, §2405; SS15, §2405; C24, 27, 31, §2020; C35, §1921-f65, 2020; C39, §1921.065, 2020; C46, 50, 54, 58, 62, 66, 71, §123.65, 128.4; C73, 75, 77, 79, 81, §123.65]

**123.66 Trial of action.**

Any action brought hereunder shall be accorded priority over other business pending before the district court.

[C97, §2406; S13, §2406; C24, 27, 31, §2021; C35, §1921-f66, 2021; C39, §1921.066, 2021; C46, 50, 54, 58, 62, 66, 71, §123.66, 128.5; C73, 75, 77, 79, 81, §123.66]

**123.67 General reputation.**

In all actions to enjoin a nuisance or to establish a violation of the injunction, evidence of the general reputation of the premises described in the petition or information shall be admissible for the purpose of proving the existence of the nuisance or the violation of the injunction.

[C97, §2406; S13, §2406; C24, 27, 31, §2022; C35, §1921-f67, 2022; C39, §1921.067, 2022; C46, 50, 54, 58, 62, 66, 71, §123.67, 128.6; C73, 75, 77, 79, 81, §123.67]

**123.68 Contempt.**

In the case of a violation of any injunction granted under the provisions of this chapter, the court may summarily try and punish the defendant pursuant to the general penalties provided by this chapter. The proceedings shall be commenced by filing with the clerk of the court an information under oath setting out the alleged facts constituting such violation, upon which the court shall cause a warrant to issue under which the defendant shall be arrested.

[C97, §2407; SS15, §2407; C24, 27, 31, §2027; C35, §1921-f68, 2027; C39, §1921.068, 2027; C46, 50, 54, 58, 62, 66, 71, §123.68, 128.13; C73, 75, 77, 79, 81, §123.68]

**123.69 Trial of contempt action.**

The trial shall be as in equity and may be had upon depositions, or either party may demand the production and oral examination of the witnesses.

[C97, SS15, §2407; C24, 27, 31, §2028; C35, §1921-f69, 2028; C39, §1921.069, 2028; C46, 50, 54, 58, 62, 66, 71, §123.69, 128.14; C73, 75, 77, 79, 81, §123.69]

**123.70 Injunction against bootlegger.**

A bootlegger as defined in this chapter may be restrained by injunction from doing or continuing to do any of the acts prohibited herein, and all the proceedings for injunctions, temporary and permanent, and for punishments for violation of the same as prescribed herein, shall be applicable to such person, and the fact that an offender has no known or permanent place of business, or base of supplies, or quits the business after the commencement of an action, shall not prevent a temporary or permanent injunction, as the case may be, from issuing.

[S13, §2461-b; C24, 27, 31, §2031; C35, §1921-f71, 2031; C39, §1921.071, 2031; C46, 50, 54, 58, 62, 66, 71, §123.71, 128.17; C73, 75, 77, 79, 81, §123.70]

**123.71 Conditions on injunction proceeding.**

A bootlegger injunction proceeding, as provided in this chapter, shall not be maintained unless it is shown to the court that efforts in good faith have been made to discover the base of supplies or place where the defendant charged as a bootlegger conducts an unlawful business or receives or manufactures the alcoholic liquor, wine, or beer, which the defendant is charged with bootlegging.

[C27, 31, §2031-a1; C35, §1921-f72, 2031-a1; C39, §1921.072, 2031.1; C46, 50, 54, 58, 62, 66, 71, §123.72, 128.18; C73, 75, 77, 79, 81, §123.71]

85 Acts, ch 32, §52

**123.72 Order of abatement of nuisance.**

If the existence of a nuisance is established in a civil or criminal action, an order of abatement shall be entered as a part of the judgment in the case. The order shall direct the confiscation of all alcoholic liquor, wine, or beer by the state; the removal from the premises involved of all fixtures, furniture, vessels, or movable property used in any way in conducting the unlawful business; the sale of all removed property as well as any vehicle or other means of conveyance which has been abated, the sale to be conducted in the manner

provided for the sale of chattels under execution; and the effective closing of the premises against use for the purpose of manufacture, sale, or consumption of alcoholic liquor, wine, or beer for a period of one year, unless sooner released by the court.

[C51, §935; R60, §1559; C73, §1523, 1543; C97, §2408; C24, 27, 31, §2032; C35, §1921-f73, 2032; C39, §1921.073, 2032; C46, 50, 54, 58, 62, 66, 71, §123.73, 128.19; C73, 75, 77, 79, 81, §123.72]

85 Acts, ch 32, §53

#### **123.73 Use of abated premises.**

If any person uses a premises closed pursuant to an abatement order in violation of such order the person shall be punished for contempt as provided in this chapter.

[C97, §2408; C24, 27, 31, §2033; C35, §1921-f74, 2033; C39, §1921.074, 2033; C46, 50, 54, 58, 62, 66, 71, §123.74, 128.20; C73, 75, 77, 79, 81, §123.73]

#### **123.74 Fees.**

For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as the officer would for levying upon and selling like property on execution; and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

[C97, §2408; C24, 27, 31, §2034; C35, §1921-f75, 2034; C39, §1921.075, 2034; C46, 50, 54, 58, 62, 66, 71, §123.75, 128.21; C73, 75, 77, 79, 81, §123.74]

#### **123.75 Proceeds of sale.**

The proceeds of the sale of personal property in abatement proceedings shall be applied first in payment of the costs of the action and abatement, and second to the satisfaction of any fine and costs adjudged against the proprietor of the premises and keeper of said nuisance, and the balance, if any, shall be paid to the defendant.

[C97, §2409; C24, 27, 31, §2035; C35, §1921-f76, 2035; C39, §1921.076, 2035; C46, 50, 54, 58, 62, 66, 71, §123.76, 128.22; C73, 75, 77, 79, 81, §123.75]

#### **123.76 Abatement of nuisance.**

If the owner of the abated premises appears and pays all costs of the proceeding and files a bond with sureties to be approved by the clerk in the full value of the property, to be ascertained by the court, conditioned that the owner will immediately abate the nuisance and prevent the same from being established or kept on such premises within a period of one year thereafter, the court may order such premises to be delivered to the owner and cancel the order of abatement so far as it may relate to the property.

[C97, §2410; S13, §2410; C24, 27, 31, §2036; C35, §1921-f77, 2036; C39, §1921.077, 2036; C46, 50, 54, 58, 62, 66, 71, §123.77, 128.23; C73, 75, 77, 79, 81, §123.76]

Referred to in §123.78, 602.8102(30)

#### **123.77 Abatement before judgment.**

If the action is in equity and the owner of the premises pays the costs of the action and files the bond prior to the entry of judgment and the abatement order, such action shall be abated as to the premises only.

[C97, §2410; S13, §2410; C24, 27, 31, §2037; C35, §1921-f78, 2037; C39, §1921.078, 2037; C46, 50, 54, 58, 62, 66, 71, §123.78, 128.24; C73, 75, 77, 79, 81, §123.77]

Referred to in §123.78

#### **123.78 Existing liens.**

The release of the property under the provisions of either section 123.76 or 123.77 shall not release it from any judgment lien, penalty, or liability, to which it may be subject by law.

[C97, §2410; S13, §2410; C24, 27, 31, §2038; C35, §1921-f79, 2038; C39, §1921.079, 2038; C46, 50, 54, 58, 62, 66, 71, §123.79, 128.25; C73, 75, 77, 79, 81, §123.78]

**123.79 Abatement bond a lien.**

Undertakings of bonds for abatement shall immediately after filing by the clerk of the district court be docketed and entered upon the lien index as required for judgments in civil cases, and from the time of such entries shall be liens upon real estate of the persons executing the same, with like effect as judgments in civil actions.

[C24, 27, 31, §2039; C35, §1921-f80, 2039; C39, §1921.080, 2039; C46, 50, 54, 58, 62, 66, 71, §123.80, 128.26; C73, 75, 77, 79, 81, §123.79]

Referred to in §123.84, 602.8102(30)

**123.80 Attested copies filed.**

Attested copies of such undertakings may be filed in the office of the clerk of the district court of the county in which the real estate is situated in the same manner and with like effect as attested copies of judgments, and shall be immediately docketed and indexed in the same manner.

[C24, 27, 31, §2040; C35, §1921-f81, 2040; C39, §1921.081, 2040; C46, 50, 54, 58, 62, 66, 71, §123.81, 128.27; C73, 75, 77, 79, 81, §123.80]

Referred to in §602.8102(30)

**123.81 Forfeiture of bond.**

If the owner of a property who has filed an abatement bond as provided in this chapter fails to abate the liquor, wine, or beer nuisance on the premises covered by the bond, or fails to prevent the maintenance of any liquor, wine, or beer nuisance on the premises at any time within a period of one year after entry of the abatement order, the court shall, after a hearing in which such fact is established, direct an entry of the violation of the terms of the owner's bond to be made on the record and the undertaking of the owner's bond shall be forfeited.

[C24, 27, 31, §2041; C35, §1921-f82, 2041; C39, §1921.082, 2041; C46, 50, 54, 58, 62, 66, 71, §123.82, 128.28; C73, 75, 77, 79, 81, §123.81]

85 Acts, ch 32, §54

**123.82 Procedure.**

A proceeding to forfeit an abatement bond shall be commenced by filing with the clerk of the court, by the county attorney of the county where the bond is filed, an application under oath to forfeit such bond, setting out the alleged facts constituting the violation of the terms of the bond, upon which the court shall direct by order attached to such application that a notice be issued by the clerk of the district court directed to the principal and sureties on the bond to appear at a certain date fixed to show cause why such bond should not be forfeited and judgment entered for the penalty fixed therein.

[C24, 27, 31, §2042; C35, §1921-f83, 2042; C39, §1921.083, 2042; C46, 50, 54, 58, 62, 66, 71, §123.83, 128.29; C73, 75, 77, 79, 81, §123.82]

**123.83 Method of trial.**

The trial shall be to the court and as in equity, and be governed by the same rules of evidence as contempt proceedings.

[C24, 27, 31, §2043; C35, §1921-f84, 2043; C39, §1921.084, 2043; C46, 50, 54, 58, 62, 66, 71, §123.84, 128.30; C73, 75, 77, 79, 81, §123.83]

**123.84 Judgment.**

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

[C24, 27, 31, §2044; C35, §1921-f85, 2044; C39, §1921.085, 2044; C46, 50, 54, 58, 62, 66, 71, §123.85, 128.31; C73, 75, 77, 79, 81, §123.84]

85 Acts, ch 32, §55

**123.85 Appeal.**

Appeal may be taken as in equity cases and the cause be triable de novo except that if the state appeals it need not file an appeal or supersedeas bond.

[C24, 27, 31, §2045; C35, §1921-f86, 2045; C39, §1921.086, 2045; C46, 50, 54, 58, 62, 66, 71, §123.86, 128.32; C73, 75, 77, 79, 81, §123.85]

**123.86 County attorney to prosecute.**

It shall be the duty of the county attorney to prosecute in the name of the state all forfeitures of abatement bonds and the foreclosures of same.

[C24, 27, 31, §2047; C35, §1921-f87, 2047; C39, §1921.087, 2047; C46, 50, 54, 58, 62, 66, 71, §123.87, 128.34; C73, 75, 77, 79, 81, §123.86]

Referred to in §331.756(25)

**123.87 Prompt service.**

It shall be a simple misdemeanor for any peace officer to delay service of original notices, writs of injunction, writs of abatement, or warrants for contempt in any equity case filed for injunction or abatement by the state.

[C24, 27, 31, §2049; C35, §1921-f88, 2049; C39, §1921.088, 2049; C46, 50, 54, 58, 62, 66, 71, §123.88, 128.36; C73, 75, 77, 79, 81, §123.87]

**123.88 Evidence.**

On the issue whether a party knew or ought to have known of such nuisance, evidence of the general reputation of the place shall be admissible.

[C24, 27, 31, §2053; C35, §1921-f89, 2053; C39, §1921.089, 2053; C46, 50, 54, 58, 62, 66, 71, §123.89, 128.40; C73, 75, 77, 79, 81, §123.88]

**123.89 Counts.**

Informations or indictments under this chapter may allege any number of violations of its provisions by the same party, but the several charges must be set out in separate counts, and the accused may be convicted and punished upon each one as on separate informations or indictments, and a separate judgment shall be rendered on each count under which there is a finding of guilty.

[C51, §931; R60, §1562; C73, §1540; C97, §2425; C24, 27, 31, §1953; C35, §1921-f90, 1953; C39, §1921.090, 1953; C46, 50, 54, 58, 62, 66, 71, §123.90, 126.8; C73, 75, 77, 79, 81, §123.89]

**123.90 Penalties generally.**

Unless other penalties are herein provided, any person, except a person under legal age, who violates any of the provisions of this chapter, or who makes a false statement concerning any material fact in submitting an application for a permit or license, shall be guilty of a serious misdemeanor. Any person under legal age who violates any of the provisions of this chapter shall upon conviction be guilty of a simple misdemeanor.

[C35, §1921-f91, 1921-f127; C39, §1921.091, 1921.132; C46, 50, 54, 58, 62, 66, 71, §123.91, 124.37; C73, 75, 77, 79, 81, §123.90]

**123.91 Second and subsequent conviction.**

Any person who has been convicted, in a criminal action, in any court of record, of a violation of a provision of this chapter, a provision of the prior laws of this state relating to intoxicating liquors, wine, or beer which was in force prior to the enactment of this chapter, or a provision of the laws of the United States or of any other state relating to intoxicating liquors, wine, or beer, and who is thereafter convicted of a subsequent criminal offense against any provision of this chapter is guilty of the following offenses:

1. For the second conviction, a serious misdemeanor.
2. For the third and each subsequent conviction, an aggravated misdemeanor.

[R60, §1561, 1563, 1577; C73, §1525, 1538, 1540, 1542, 1559; SS15, §2461-m; C24, 27, 31, 35, 39, §1964; C46, 50, 54, 58, 62, 66, 71, §126.19; C73, 75, 77, 79, 81, §123.91]

85 Acts, ch 32, §56

**123.92 Civil liability for dispensing or sale and service of beer, wine, or intoxicating liquor (Dramshop Act) — liability insurance — underage persons.**

1. *a.* Any person who is injured in person or property or means of support by an intoxicated person or resulting from the intoxication of a person, has a right of action for all damages actually sustained, severally or jointly, against any licensee or permittee, whether or not the license or permit was issued by the division or by the licensing authority of any other state, who sold and served any beer, wine, or intoxicating liquor to the intoxicated person when the licensee or permittee knew or should have known the person was intoxicated, or who sold to and served the person to a point where the licensee or permittee knew or should have known the person would become intoxicated.

*b.* If the injury was caused by an intoxicated person, a permittee or licensee may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the person.

2. *a.* Every liquor control licensee and class “B” beer permittee, except a class “E” liquor control licensee, shall furnish proof of financial responsibility by the existence of a liability insurance policy in an amount determined by the division. If an insurer provides dramshop liability insurance at a new location to a licensee or permittee who has a positive loss experience at other locations for which such insurance is provided by the insurer, and the insurer bases premium rates at the new location on the negative loss history of the previous licensee or permittee at that location, the insurer shall examine and consider adjusting the premium for the new location not less than thirty months after the insurance is issued, based on the loss experience of the licensee or permittee at that location during that thirty-month period of time.

*b.* A dramshop liability insurance policy may be written on an aggregate limit basis.

*c.* The purpose of dramshop liability insurance is to provide protection for members of the public who experience damages as a result of licensees or permittees serving patrons beer, wine, or intoxicating liquor to a point that reaches or exceeds the standard set forth in law for liability. Minimum coverage requirements for such insurance are not for the purpose of making the insurance affordable for all licensees or permittees regardless of claims experience. A dramshop liability insurance policy obtained by a licensee or permittee shall meet the minimum insurance coverage requirements as determined by the division and is a mandatory condition for holding a license or permit.

3. *a.* Notwithstanding section 123.49, subsection 1, any person who is injured in person or property or means of support by an intoxicated person who is under legal age or resulting from the intoxication of a person who is under legal age, has a right of action for all damages actually sustained, severally or jointly, against a person who is not a licensee or permittee and who dispensed or gave any beer, wine, or intoxicating liquor to the intoxicated underage person when the nonlicensee or nonpermittee who dispensed or gave the beer, wine, or intoxicating liquor to the underage person knew or should have known the underage person was intoxicated, or who dispensed or gave beer, wine, or intoxicating liquor to the underage person to a point where the nonlicensee or nonpermittee knew or should have known that the underage person would become intoxicated.

*b.* If the injury was caused by an intoxicated person who is under legal age, a person who is not a licensee or permittee and who dispensed or gave beer, wine, or intoxicating liquor to the underage person may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the underage person.

*c.* For purposes of this subsection, “dispensed” or “gave” means the act of physically presenting a receptacle containing beer, wine, or intoxicating liquor to the underage person whose actions or intoxication results in the sustaining of damages by another person. However, a person who dispenses or gives beer, wine, or intoxicating liquor to an underage

person shall only be liable for any damages if the person knew or should have known that the underage person was under legal age.

[C73, §1557; C97, §2418; C24, 27, 31, 35, 39, §2055; C46, 50, 54, 58, 62, §129.2; C66, 71, §123.95, 129.2; C73, 75, 77, 79, 81, §123.92]

85 Acts, ch 32, §57; 86 Acts, ch 1211, §12; 88 Acts, ch 1158, §30; 92 Acts, ch 1136, §1; 97 Acts, ch 126, §7; 2009 Acts, ch 128, §1; 2013 Acts, ch 124, §1

Referred to in §123.95

[T] Subsection 2 amended

### **123.93 Limitation of action.**

Within six months of the occurrence of an injury, the injured person shall give written notice to the licensee or permittee or such licensee's or permittee's insurance carrier of the person's intention to bring an action under this section, indicating the time, place and circumstances causing the injury. Such six months' period shall be extended if the injured party is incapacitated at the expiration thereof or unable, through reasonable diligence, to discover the name of the licensee, permittee, or person causing the injury or until such time as such incapacity is removed or such person has had a reasonable time to discover the name of the licensee, permittee or person causing the injury.

[C73, 75, 77, 79, 81, §123.93]

### **123.94 Inurement of action prohibited.**

No right of action for contribution or indemnity shall accrue to any insurer, guarantor or indemnitor of any intoxicated person for any act of such intoxicated person against any licensee or permittee as defined in this chapter.

[C73, 75, 77, 79, 81, §123.94]

### **123.95 Premises must be licensed — exception as to conventions and social gatherings.**

1. A person shall not allow the dispensing or consumption of alcoholic liquor, except wines and beer, in any establishment unless the establishment is licensed under this chapter or except as otherwise provided in this section. The holder of an annual class "B" liquor control license or an annual class "C" liquor control license may act as the agent of a private social host for the purpose of providing and serving alcoholic liquor, wine, and beer as part of a food catering service for a private social gathering in a private place. The holder of an annual special class "C" liquor control license shall not act as the agent of a private social host for the purpose of providing and serving wine and beer as part of a food catering service for a private social gathering in a private place. The private social host or the licensee shall not solicit donations in payment for the food or alcoholic beverages from the guests, and the alcoholic beverages and food shall be served without cost to the guests. Section 123.92 does not apply to a liquor control licensee who acts in accordance with this section when the liquor control licensee is providing and serving food and alcoholic beverages as an agent of a private social host at a private social gathering in a private place which is not on the licensed premises.

2. An applicant for a class "B" liquor control license or class "C" liquor control license shall state on the application for the license that the licensee intends to engage in catering food and alcoholic beverages for private social gatherings and the catering privilege shall be noted on the license or permit. A licensee who engages in catering food and alcoholic beverages for private social gatherings shall maintain a record on the licensed premises which includes the name and address of the host of the private social gathering, and the date for which catering was provided. The record maintained pursuant to this section shall be open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee.

3. However, bona fide conventions or meetings may bring their own legal liquor onto the licensed premises if the liquor is served to delegates or guests without cost. All other provisions of this chapter shall be applicable to such premises. The provisions of this section shall have no application to private social gatherings of friends or relatives in a private home or private place which is not of a commercial nature nor where goods or services may be

purchased or sold nor any charge or rent or other thing of value is exchanged for the use of such premises for any purpose other than for sleeping quarters.

[C66, 71, §123.96; C73, 75, 77, 79, 81, §123.95]

85 Acts, ch 32, §58; 93 Acts, ch 91, §20

Referred to in §7D.16, 123.49

**123.96** Repealed by 86 Acts, ch 1246, § 754.

**123.97 Covered into general fund.**

All revenues, except the portion of license fees remitted to the local authorities, arising under the operation of the provisions of this chapter shall become part of the state general fund.

[C66, 71, §123.101; C73, 75, 77, 79, 81, §123.97]

**123.98 Labeling shipments.**

It shall be unlawful for any common carrier or for any person to transport or convey by any means, whether for compensation or not, within this state, any intoxicating liquors, unless the vessel or other package containing such liquors shall be plainly and correctly identified, showing the quantity and kind of liquors contained therein, the name of the party to whom they are to be delivered, and the name of the shipper, or unless such information is shown on a bill of lading or other document accompanying the shipment. No person shall be authorized to receive or keep such liquors unless the same be marked or labeled as required by this section. The violation of any provision of this section by any common carrier, or any agent or employee of any carrier, or by any person, shall be punished under the provisions of this chapter.

Liquors conveyed, carried, transported, or delivered in violation of this section, whether in the hands of the carrier or someone to whom they shall have been delivered, shall be subject to seizure and condemnation, as liquors kept for illegal sale.

[C97, §2421; C24, 27, 31, 35, 39, §1936, 1938; C46, 50, 54, 58, 62, 66, 71, §125.16, 125.18; C73, 75, 77, 79, 81, §123.98]

**123.99 False statements.**

If any person, for the purpose of procuring the shipment, transportation, or conveyance of any intoxicating liquor, wine, or beer within this state, shall make to any person, company, corporation, or common carrier, or to any agent thereof, any false statements as to the character or contents of any box, barrel, or other vessel or package containing such liquor, wine, or beer; or shall refuse to give correct and truthful information as to the contents of any such box, barrel, or other vessel or package so sought to be transported or conveyed; or shall falsely mark, brand, or label such box, barrel, or other vessel or package in order to conceal the fact that the same contains intoxicating liquor, wine, or beer; or shall by any device or concealment procure or attempt to procure the conveyance or transportation of such liquor, wine, or beer as herein prohibited, the person shall be guilty of a simple misdemeanor.

[C97, §2420; C24, 27, 31, 35, 39, §1934; C46, 50, 54, 58, 62, 66, 71, §125.14; C73, 75, 77, 79, 81, §123.99]

2013 Acts, ch 35, §25

[T] Section amended

**123.100 Packages in transit.**

Any peace officer of the county under process or warrant to the peace officer directed shall have the right to open any box, barrel, or other vessel or package for examination, if the peace officer has reasonable ground for believing that it contains intoxicating liquor, wine, or beer, either before or while the same is being so transported or conveyed.

[C97, §2420; C24, 27, 31, 35, 39, §1935; C46, 50, 54, 58, 62, 66, 71, §125.15; C73, 75, 77, 79, 81, §123.100]

2013 Acts, ch 35, §26

[T] Section amended

**123.101 Record of shipments.**

It shall be the duty of all common carriers, or corporations, or persons who shall for hire carry any intoxicating liquor, wine, or beer into the state, or from one point to another within the state, for the purpose of delivery, and who shall deliver such intoxicating liquor, wine, or beer to any person, company, or corporation, to maintain a proper record of the name of the consignor of each shipment of intoxicating liquor, wine, or beer from where shipped, the date of arrival, the quantity and kind of intoxicating liquor, wine, or beer, so far as disclosed by lettering on the package or by the carrier's records, and to whom and where consigned, and the date delivered.

[SS15, §2421-b; C24, 27, 31, 35, 39, §1940; C46, 50, 54, 58, 62, 66, 71, §125.20; C73, 75, 77, 79, 81, §123.101]

2013 Acts, ch 35, §27

Referred to in §123.102

[T] Section amended

**123.102 Inspection of shipping records.**

The records required by section 123.101 shall, during business hours, be open to inspection by any peace or law enforcing officer. It is a simple misdemeanor to refuse such inspection.

[SS15, §2421-c, -d; C24, 27, 31, 35, 39, §1941; C46, 50, 54, 58, 62, 66, 71, §125.21; C73, 75, 77, 79, 81, §123.102]

2013 Acts, ch 35, §28

[T] Section amended

**123.103 Record and certification upon delivery.**

The full name and residence or place of business of the consignee of a shipment billed in whole or in part as intoxicating liquor, wine, or beer, shall be properly recorded at the time of delivery and the consignee shall certify that the intoxicating liquor, wine, or beer is for the consignee's own lawful purposes.

[SS15, §2421-b; C24, 27, 31, 35, 39, §1942; C46, 50, 54, 58, 62, 66, 71, §125.22; C73, 75, 77, 79, 81, §123.103]

2013 Acts, ch 35, §29

Referred to in §123.104

[T] Section amended

**123.104 Unlawful delivery.**

It is a simple misdemeanor for any corporation, common carrier, person, or any agent or employee thereof:

1. To deliver any intoxicating liquor, wine, or beer to any person other than to the consignee.

2. To deliver any intoxicating liquor, wine, or beer without having the same properly recorded as provided in section 123.103.

3. To deliver any intoxicating liquor, wine, or beer where there is reasonable ground to believe that such intoxicating liquor, wine, or beer is intended for unlawful use.

[SS15, §2421-c1; C24, 27, 31, 35, 39, §1943; C46, 50, 54, 58, 62, 66, 71, §125.23; C73, 75, 77, 79, 81, §123.104]

2013 Acts, ch 35, §30

[T] Section amended

**123.105 Immunity from damage.**

In no case shall any corporation, common carrier, person, or the agent thereof, be liable in damages for complying with any requirements of this chapter.

[SS15, §2421-c; C24, 27, 31, 35, 39, §1944; C46, 50, 54, 58, 62, 66, 71, §125.24; C73, 75, 77, 79, 81, §123.105]

**123.106 Federal statutes.**

The requirements of this chapter relative to the shipment and delivery of intoxicating liquor, wine, or beer and the records to be kept thereof shall be construed in harmony with federal statutes relating to interstate commerce in such liquor, wine, or beer.

[SS15, §2421-e; C24, 27, 31, 35, 39, §1945; C46, 50, 54, 58, 62, 66, 71, §125.25; C73, 75, 77, 79, 81, §123.106]

2013 Acts, ch 35, §31

[T] Section amended

**123.107 Unnecessary allegations.**

1. In any indictment or information under this chapter, it shall not be necessary:

a. To set out exactly the kind or quantity of intoxicating liquor, wine, or beer manufactured, sold, given in evasion of the statute, or kept for sale.

b. To set out the exact time of manufacture, sale, gift, or keeping for sale.

c. To negative any exceptions contained in the statute creating or defining the offense, which may be proper ground of defense.

2. But proof of the violation by the accused of any provision of this chapter, the substance of which violation is briefly set forth, within the time mentioned in said indictment or information, shall be sufficient to convict such person.

[R60, §1569; C73, §1549; C97, §2424; C24, 27, 31, 35, 39, §1952; C46, 50, 54, 58, 62, 66, 71, §126.7; C73, 75, 77, 79, 81, §123.107]

2009 Acts, ch 41, §263; 2013 Acts, ch 35, §32

[T] Subsection 1, paragraph a amended

**123.108 Second conviction defined.**

The second or subsequent convictions provided for in this chapter shall be convictions on separate informations or indictments, and, unless shown in the information or indictment, the charge shall be held to be for a first offense.

[R60, §1562; C73, §1540; C97, §2425; C24, 27, 31, 35, 39, §1955; C46, 50, 54, 58, 62, 66, 71, §126.10; C73, 75, 77, 79, 81, §123.108]

**123.109 Record of conviction.**

On the trial of any cause in which the accused is charged with a second or subsequent offense, a duly authenticated copy of the former judgment in any court in which such conviction was had shall be competent evidence of such former conviction.

[SS15, §2461-n; C24, 27, 31, 35, 39, §1956; C46, 50, 54, 58, 62, 66, 71, §126.11; C73, 75, 77, 79, 81, §123.109]

**123.110 Proof of sale.**

It shall not be necessary in every case to prove payment in order to prove a sale within the meaning and intent of this chapter.

[R60, §1569; C73, §1549; C97, §2424; C24, 27, 31, 35, 39, §1957; C46, 50, 54, 58, 62, 66, 71, §126.12; C73, 75, 77, 79, 81, §123.110]

**123.111 Purchaser as witness.**

The person purchasing any intoxicating liquor, wine, or beer sold in violation of this chapter shall in all cases be a competent witness to prove such sale.

[R60, §1569; C73, §1549; C97, §2424; C24, 27, 31, 35, 39, §1958; C46, 50, 54, 58, 62, 66, 71, §126.13; C73, 75, 77, 79, 81, §123.111]

2013 Acts, ch 35, §33

[T] Section amended

**123.112 Peace officer as witness.**

Every peace officer shall give evidence, when called upon, of any facts within the peace officer's knowledge tending to prove a violation of the provisions of this chapter.

[R60, §1578; C73, §1551; C97, §2428; S13, §2428; C24, 27, 31, 35, 39, §1959; C46, 50, 54, 58, 62, 66, 71, §126.14; C73, 75, 77, 79, 81, §123.112]

**123.113 Judgment lien.**

For all fines and costs assessed or judgments rendered of any kind against any person for a violation of any provision of this chapter, or costs paid by the county on account of such violation, the personal and real property of the violator, whether exempt or not, except the homestead, as well as the premises and property, personal and real, occupied and used for the unlawful purpose, with the knowledge of the owner or the owner's agent, by the violator, shall be liable, and the same shall be a lien on such real estate until paid.

[R60, §1579; C73, §1552, 1558; C97, §2422; C24, 27, 31, 35, 39, §1960; C46, 50, 54, 58, 62, 66, 71, §126.15; C73, 75, 77, 79, 81, §123.113]

**123.114 Enforcement of lien.**

Costs paid by the county for the prosecution of actions or proceedings, civil or criminal, under this chapter, as well as the fines inflicted or judgments rendered, may be enforced against the property upon which the lien attaches by execution, or by action against the owner of the property to subject it to the payment thereof.

[C73, §1558; C97, §2422; C24, 27, 31, 35, 39, §1961; C46, 50, 54, 58, 62, 66, 71, §126.16; C73, 75, 77, 79, 81, §123.114]

**123.115 Defense.**

In any prosecution under this chapter for the unlawful transportation of intoxicating liquor, wine, or beer it shall be a defense that the character and contents of the shipment or thing transported were not known to the accused or to the accused's agent or employee.

[C97, §2419; C24, §2059; C27, 31, 35, §1945-a2; C39, §1945.3; C46, 50, 54, 58, 62, 66, 71, §125.28; C73, 75, 77, 79, 81, §123.115]

2013 Acts, ch 35, §34

[T] Section amended

**123.116 Right to receive liquor, wine, or beer.**

The consignee of intoxicating liquor, wine, or beer shall, on demand of the carrier transporting such liquor, wine, or beer, furnish the carrier, at the place of delivery, with legal proof of the consignee's legal right to receive such liquor, wine, or beer at the time of delivery, and until such proof is furnished the carrier shall be under no legal obligation to make delivery nor be liable for failure to deliver.

[C24, §2061; C27, 31, 35, §1945-a4; C39, §1945.5; C46, 50, 54, 58, 62, 66, 71, §125.30; C73, 75, 77, 79, 81, §123.116]

2013 Acts, ch 35, §35

[T] Section amended

**123.117 Delivery to sheriff.**

If such proof is not furnished the carrier within ten days after demand, the carrier may deliver such liquor, wine, or beer to the sheriff of the county embracing the place of delivery, and such delivery shall absolve the carrier from all liability pertaining to such liquor, wine, or beer.

[C24, §2062; C27, 31, 35, §1945-a5; C39, §1945.6; C46, 50, 54, 58, 62, 66, 71, §125.31; C73, 75, 77, 79, 81, §123.117]

2013 Acts, ch 35, §36

Referred to in §331.653

[T] Section amended

**123.118 Destruction.**

The sheriff shall, on receipt of such liquor, wine, or beer from the carrier, report the receipt to the district court of the sheriff's county, and the court shall proceed to summarily enter an order for the destruction or forfeiture to the state of such liquor, wine, or beer.

[C24, §2063; C27, 31, 35, §1945-a6; C39, §1945.7; C46, 50, 54, 58, 62, 66, 71, §125.32; C73, 75, 77, 79, 81, §123.118]

2013 Acts, ch 35, §37

Referred to in §331.653

[T] Section amended

**123.119 Evidence.**

In all actions, civil or criminal, under the provisions of this chapter, the finding of intoxicating liquors or of instruments or utensils used in the manufacture of intoxicating liquors, or materials which are being used, or are intended to be used in the manufacture of intoxicating liquors, in the possession of or under the control of any person, under and by authority of a search warrant or other process of law, and which shall have been finally adjudicated and declared forfeited by the court, shall be competent evidence of maintaining a nuisance or bootlegging, or of illegal transportation of intoxicating liquors, as the case may be, by such person.

[C27, 31, 35, §1966-a1; C39, §1966.1; C46, 50, 54, 58, 62, 66, 71, §126.23; C73, 75, 77, 79, 81, §123.119]

**123.120 Attempt to destroy.**

The destruction of or attempt to destroy any liquid by any person while in the presence of peace officers or while a property is being searched by a peace officer, shall be competent evidence that such liquid is intoxicating liquor, wine, or beer and intended for unlawful purposes.

[C27, 31, 35, §1966-a3; C39, §1966.3; C46, 50, 54, 58, 62, 66, 71, §126.25; C73, 75, 77, 79, 81, §123.120]

2013 Acts, ch 35, §38

[T] Section amended

**123.121 Venue.**

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

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

[C97, §2419; C24, §1928, 2060; C27, 31, 35, §1928, 1945-a3; C39, §1928, 1945.4; C46, 50, 54, 58, 62, 66, 71, §125.8, 125.29; C73, 75, 77, 79, 81, §123.121]

85 Acts, ch 32, §60; 2013 Acts, ch 35, §39

[T] Unnumbered paragraph 1 editorially designated as subsection 1

[T] Unnumbered paragraph 2 amended and editorially designated as subsection 2

## DIVISION II

### BEER PROVISIONS

**123.122 Permit or license required.**

A person shall not manufacture for sale or sell beer at wholesale or retail unless a permit is first obtained as provided in this division or, a liquor control license authorizing the retail sale of beer is first obtained as provided in division I of this chapter. A liquor control license holder is not required to hold a separate class "B" beer permit.

[C35, §1921-f96; C39, §1921.095; C46, 50, 54, 58, 62, 66, 71, §124.1; C73, 75, 77, 79, 81, §123.122]

88 Acts, ch 1088, §7

[P] Charity beer, spirits, and wine auction permits, see §123.173A

[T] Section not amended; footnote revised

**123.123 Effect on liquor control licensees.**

All applicable provisions of this division relating to class "B" beer permits shall apply to liquor control licensees in the purchasing, storage, handling, serving, and sale of beer.

[C73, 75, 77, 79, 81, §123.123]

**123.124 Permits — classes.**

Permits for the manufacture and sale, or sale of beer shall be divided into six classes, known as class “A”, special class “A”, class “AA”, special class “AA”, class “B”, or class “C” permits. A class “A” permit allows the holder to manufacture and sell beer at wholesale. A holder of a special class “A” permit may only manufacture beer to be consumed on the licensed premises for which the person also holds a class “C” liquor control license or class “B” beer permit and to be sold to a class “A” permittee for resale purposes. A class “AA” permit allows the holder to manufacture and sell high alcoholic content beer at wholesale. A holder of a special class “AA” permit may only manufacture high alcoholic content beer to be consumed on the licensed premises for which the person also holds a class “C” liquor control license or class “B” beer permit and to be sold to a class “AA” permittee for resale purposes. A class “B” permit allows the holder to sell beer to consumers at retail for consumption on or off the premises. A class “C” permit allows the holder to sell beer to consumers at retail for consumption on the premises.

[C35, §1921-f98; C39, §1921.097; C46, 50, 54, 58, 62, 66, 71, §124.3; C73, 75, 77, 79, 81, §123.124]

88 Acts, ch 1241, §15; 89 Acts, ch 221, §1; 92 Acts, ch 1003, §1; 94 Acts, ch 1017, §6; 2010 Acts, ch 1031, §89, 96

Referred to in §123.45

**123.125 Issuance of permits.**

The administrator shall issue class “A”, special class “A”, class “AA”, special class “AA”, class “B”, and class “C” beer permits and may suspend or revoke permits for cause as provided in this chapter.

[C35, §1921-f98; C39, §1921.097; C46, 50, 54, 58, 62, 66, 71, §124.3; C73, 75, 77, 79, 81, §123.125]

89 Acts, ch 221, §2; 2010 Acts, ch 1031, §90, 96

**123.126 High alcoholic content beer — applicability.**

Unless otherwise provided by this chapter, the provisions of this chapter applicable to beer shall also apply to high alcoholic content beer.

2010 Acts, ch 1189, §42, 43

[SP] Section takes effect April 29, 2010, and applies retroactively to March 10, 2010; 2010 Acts, ch 1189, §43

**123.127 Class “A” or “AA” and special class “A” or “AA” applications.**

1. A class “A” or class “AA” permit shall be issued by the administrator to any person who:

- a. Submits an application electronically, or in a manner prescribed by the administrator, which shall state under oath:

- (1) The name and place of residence of the applicant and the length of time the applicant has lived at such place of residence.

- (2) That the applicant is a citizen of the state of Iowa.

- (3) That the applicant is a person of good moral character as defined by this chapter.

- (4) The location of the premises where the applicant intends to operate.

- (5) The name of the owner of the premises and if such owner is not the applicant, that such applicant is the actual lessee of the premises.

- b. Establishes:

- (1) That the applicant is a person of good moral character as defined by this chapter.

- (2) That the premises where the applicant intends to operate conform to all laws and health and fire regulations applicable thereto.

- c. Furnishes a bond in a manner prescribed by the administrator, with good and sufficient sureties to be approved by the administrator conditioned upon the faithful observance of this chapter, in the sum of five thousand dollars, payable to the state.

- d. Gives consent to a person, pursuant to section 123.30, subsection 1, to enter upon the premises without a warrant during the business hours of the permittee to inspect for violations of the provisions of this chapter or ordinances and regulations that local authorities may adopt.

2. An applicant for a special class “A” or special class “AA” permit shall comply with the

requirements for a class “A” or class “AA” permit, as applicable, and shall also state on the application that the applicant holds or has applied for a class “C” liquor control license or class “B” beer permit.

[C35, §1921-f102; C39, §1921.103; C46, 50, 54, 58, 62, 66, §124.8; C71, §124.8, 124.41; C73, 75, 77, 79, 81, §123.127]

88 Acts, ch 1241, §16; 89 Acts, ch 221, §3; 2003 Acts, ch 143, §6, 17; 2009 Acts, ch 41, §177; 2010 Acts, ch 1031, §91, 92, 96; 2013 Acts, ch 35, §8, 9

Referred to in §123.128, 123.129

[T] Subsection 1, paragraph a, unnumbered paragraph 1 amended

[T] Subsection 1, paragraph c amended

### **123.128 Class “B” application.**

A class “B” permit shall be issued by the administrator to any person who:

1. Submits an application electronically, or in a manner prescribed by the administrator, which shall state under oath:

a. All the information required of a class “A” applicant by section 123.127, subsection 1, paragraph “a”.

b. That the premises for which the permit is sought is and will continue to be equipped with sufficient tables and seats to accommodate twenty-five persons at one time, and in areas where such business is permitted by any valid zoning ordinance or will be so permitted on the effective date of the permit.

2. Fulfills the requirements of section 123.127, subsection 1, paragraph “b”, relating to class “A” applicants.

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

[C35, §1921-f103; C39, §1921.104; C46, 50, 54, 58, 62, 66, 71, §124.9; C73, 75, 77, 79, 81, §123.128]

88 Acts, ch 1088, §8; 88 Acts, ch 1241, §17; 2009 Acts, ch 41, §178, 179; 2013 Acts, ch 35, §10

Referred to in §123.32

[T] Subsection 1, unnumbered paragraph 1 amended

### **123.129 Class “C” application.**

1. A class “C” permit shall not be issued to any person except the owner or proprietor of a grocery store or pharmacy.

2. A class “C” permit shall be issued by the administrator to any person who is the owner or proprietor of a grocery store or pharmacy, who:

a. Submits an application electronically, or in a manner prescribed by the administrator, which shall state under oath all the information required of a class “A” applicant by section 123.127, subsection 1, paragraph “a”.

b. Establishes that the person is of good moral character as defined by this chapter.

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

d. States the number of square feet of interior floor space which comprises the retail sales area of the premises for which the permit is sought.

[C35, §1921-f104; C39, §1921.105; C46, 50, 54, 58, 62, 66, 71, §124.10; C73, 75, 77, 79, 81, §123.129]

88 Acts, ch 1088, §9; 88 Acts, ch 1241, §18; 2009 Acts, ch 41, §180; 2009 Acts, ch 133, §193; 2011 Acts, ch 17, §12; 2013 Acts, ch 35, §11

Referred to in §123.32

[T] Subsection 2, paragraph a amended

### **123.130 Authority under class “A”, class “AA”, special class “A”, and special class “AA” permits.**

1. Any person holding a class “A” permit issued by the division shall be authorized to manufacture and sell, or sell at wholesale, beer for consumption off the premises, such sales within the state to be made only to persons holding subsisting class “A”, “B”, or “C” permits, or liquor control licenses issued in accordance with the provisions of this chapter. A class “A”, class “AA”, or special class “AA” permit does not grant authority to manufacture wine as defined in section 123.3, subsection 47.

2. All class “A” premises shall be located within the state. All beer received by the holder of

a class “A” permit from the holder of a certificate of compliance before being resold must first come to rest on the premises licensed by the class “A” permit holder, must be inventoried, and is subject to the barrel tax when resold as provided in section 123.136. A class “A” permittee shall not store beer overnight except on premises licensed under a class “A” permit.

3. A person who holds a special class “A” permit for the same location at which the person holds a class “C” liquor control license or class “B” beer permit may manufacture and sell beer to be consumed on the premises and may sell beer to a class “A” permittee for resale purposes.

[C35, §1921-f105; C39, §1921.106; C46, 50, 54, 58, 62, 66, 71, §124.11; C73, 75, 77, 79, 81, §123.130]

88 Acts, ch 1241, §19; 89 Acts, ch 221, §4; 92 Acts, ch 1003, §2; 2010 Acts, ch 1031, §93, 96

#### **123.131 Authority under class “B” permit.**

Subject to the provisions of this chapter, any person holding a class “B” permit shall be authorized to sell beer for consumption on or off the premises. However, unless otherwise provided in this chapter, no sale of beer shall be made for consumption on the premises unless the place where such service is made is equipped with tables and seats sufficient to accommodate not less than twenty-five persons at one time.

[C35, §1921-f106; C39, §1921.107; C46, 50, 54, 58, 62, 66, 71, §124.12; C73, 75, 77, 79, 81, §123.131]

#### **123.132 Authority under class “C” permit.**

The holder of a class “C” permit shall be allowed to sell beer to consumers at retail for consumption off the premises. The sales made pursuant to this section shall be made in original containers only. The holder of a class “C” permit or the permittee’s agents or employees shall not sell beer to other retail license or permit holders knowing or having reasonable cause to believe that the beer will be resold in another licensed establishment.

[C35, §1921-f107; C39, §1921.108; C46, 50, 54, 58, 62, 66, 71, §124.13; C73, 75, 77, 79, 81, §123.132]

94 Acts, ch 1017, §7

#### **123.133 Sale on trains — bond.** Repealed by 2011 Acts, ch 17, § 16.

#### **123.134 Beer fees — Sunday sales.**

1. The annual permit fee for a class “A” or special class “A” permit is two hundred fifty dollars.

2. The annual permit fee for a class “AA” or special class “AA” permit is five hundred dollars.

3. The annual permit fee for a class “B” permit shall be graduated according to population as follows:

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

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

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

d. For premises located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be operated under the permit, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the permit fee which is the largest shall prevail. However, if the premises are located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

4. The annual permit fee for a class “C” permit shall be graduated on the basis of the amount of interior floor space which comprises the retail sales area of the premises covered by the permit, as follows:

a. Up to one thousand five hundred square feet, the sum of seventy-five dollars.

b. Over one thousand five hundred square feet and up to two thousand square feet, the sum of one hundred dollars.

c. Over two thousand and up to five thousand square feet, the sum of two hundred dollars.

d. Over five thousand square feet, the sum of three hundred dollars.

5. Any club, hotel, motel, or commercial establishment holding a class “B” beer permit, 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 or off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday. Any class “C” beer permittee may sell beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday. 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.

[C35, §1921-f117; C39, §1921.119; C46, 50, 54, 58, 62, 66, 71, §124.24; C73, 75, 77, 79, 81, §123.134]

84 Acts, ch 1275, §5; 87 Acts, ch 22, §10; 88 Acts, ch 1241, §20; 89 Acts, ch 221, §5; 91 Acts, ch 245, §4; 2010 Acts, ch 1031, §94, 96; 2011 Acts, ch 17, §13

Referred to in §123.34, 123.49, 123.143, 123.150

### **123.135 Certificate of compliance — civil penalty.**

1. A manufacturer, brewer, bottler, importer, or vendor of beer or any agent thereof desiring to ship or sell beer, or have beer brought into this state for resale by a class “A” permittee shall first make application for and be issued a brewer’s certificate of compliance by the administrator for that purpose. The certificate of compliance expires at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise revoked for cause. Each application for a certificate of compliance or renewal of a certificate shall be submitted electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of five hundred dollars payable to the division. Each holder of a certificate of compliance shall furnish the information in a manner the administrator requires.

2. At the time of applying for a certificate of compliance, each applicant shall file with the division a list of all class “A” permittees with whom it intends to do business and shall designate the geographic area in which its products are to be distributed by such permittee. The listing of class “A” permittees and geographic area as filed with the division may be amended from time to time by the holder of a certificate of compliance.

3. All class “A” permit holders shall sell only those brands of beer which are manufactured, brewed, bottled, shipped, or imported by a person holding a current certificate of compliance. Any employee or agent working for or representing the holder of a certificate of compliance within this state shall submit electronically, or in a manner prescribed by the administrator, the employee’s or agent’s name and address with the division.

4. It shall be unlawful for any holder of a certificate of compliance or the holder’s agent, or any class “A” permit holder or the permit holder’s agent, to grant to any retail beer permit holder, directly or indirectly, any rebates, free goods, or quantity discounts on beer which are not uniformly offered to all retail permittees.

5. Notwithstanding any other penalties provided by this chapter, any holder of a certificate of compliance or any class “A” permit holder who violates this chapter or the rules adopted pursuant to this chapter is subject to a civil penalty not to exceed one thousand dollars or suspension of the holder’s certificate or permit for a period not to exceed one year, or both such civil penalty and suspension. Civil penalties imposed under this section shall be collected and retained by the division.

[C73, 75, 77, 79, 81, §123.135]

89 Acts, ch 221, §6; 89 Acts, ch 252, §3; 2010 Acts, ch 1031, §95, 96; 2012 Acts, ch 1021, §38; 2013 Acts, ch 35, §12

[T] Subsections 1 and 3 amended

**123.136 Barrel tax.**

In addition to the annual permit fee to be paid by all class “A” permittees under this chapter there shall be levied and collected from the permittees on all beer manufactured for sale or sold in this state at wholesale and on all beer imported into this state for sale at wholesale and sold in this state at wholesale, and from special class “A” permittees on all beer manufactured for consumption on the premises, a tax of five and eighty-nine hundredths dollars for every barrel containing thirty-one gallons, and at a like rate for any other quantity or for the fractional part of a barrel. However, no tax shall be levied or collected on beer shipped outside this state by a class “A” permittee or sold by one class “A” permittee to another class “A” permittee.

All revenue derived from the barrel tax shall accrue to the state general fund.

All of the provisions of this chapter relating to the administration of the barrel tax on beer shall apply to this section.

[C35, §1921-f118; C39, §1921.120; C46, 50, 54, 58, 62, 66, 71, §124.25; C73, 75, 77, 79, 81, §123.136]

86 Acts, ch 1246, §751; 89 Acts, ch 221, §7

Referred to in §123.130, 123.137, 123.142

**123.137 Report of barrel sales — penalty.**

1. A person holding a class “A” or special class “A” permit shall on or before the tenth day of each calendar month commencing on the tenth day of the calendar month following the month in which the person is issued a permit, make a report under oath to the division electronically, or in a manner prescribed by the administrator, showing the exact number of barrels of beer, or fractional parts of barrels, sold by the permit holder during the preceding calendar month. The report shall also state information the administrator requires, and permit holders shall at the time of filing a report pay to the division the amount of tax due at the rate fixed in section 123.136.

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

[C35, §1921-f119; C39, §1921.121; C46, 50, 54, 58, 62, 66, 71, §124.26; C73, 75, 77, 79, 81, §123.137]

89 Acts, ch 221, §8; 2013 Acts, ch 35, §13

[†] Unnumbered paragraph 1 amended and editorially designated as subsection 1

[†] Unnumbered paragraph 2 editorially designated as subsection 2

**123.138 Records required — keg identification sticker.**

1. Each class “A” or special class “A” permittee shall keep proper records showing the amount of beer sold by the permittee, and these records shall be at all times open to inspection by the administrator and to other persons pursuant to section 123.30, subsection 1. Each class “B” permittee, class “C” permittee, and retail liquor control licensee shall keep proper records showing each purchase of beer made by the permittee and licensee, and the date and the amount of each purchase and the name of the person from whom each purchase was made, which records shall be open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the permittee or licensee.

2. a. Each class “B”, “C”, or special class “C” liquor control licensee and class “B” or “C” beer permittee who sells beer for off-premises consumption shall affix to each keg of beer an identification sticker provided by the administrator. The sticker provided shall allow for its full removal when common external keg cleaning procedures are performed. For the purposes of this subsection, “keg” means all durable and disposable containers with a liquid capacity of five gallons or more. Each class “B”, “C”, or special class “C” liquor control licensee and class “B” or “C” beer permittee shall also keep a record of the identification sticker number of each keg of beer sold by the licensee or permittee with the name and address of the purchaser and the number of the purchaser’s driver’s license, nonoperator’s identification card, or military identification card, if the military identification card contains a picture and signature. This information shall be retained by the licensee or permittee for a minimum of ninety days. The records kept pursuant to this subsection shall be available for inspection by any law enforcement officer during normal business hours.

b. (1) The division shall provide the keg identification stickers described in paragraph “a” and shall, prior to utilizing a sticker, notify licensed brewers and licensed beer importers of the type of sticker to be utilized. Each sticker shall contain a number and the following statement:

It is unlawful to sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person under legal age. Any person who defaces this sticker shall be guilty of criminal mischief punishable pursuant to section 716.6 and shall cause the forfeiture of any deposit, if applicable.

(2) The identification sticker shall be placed on the keg at the time of retail sale. The licensee or permittee shall purchase the stickers referred to in this subsection from the division and shall remit to the division deposits forfeited pursuant to this lettered paragraph due to defacement. The cost of the stickers to licensees and permittees shall not exceed the division’s cost of producing and distributing the stickers. The moneys collected by the division relating to the sale of stickers and forfeited deposits shall be credited to the beer and liquor control fund.

c. The provisions of this subsection shall be implemented uniformly throughout the state. The provisions of this subsection shall preempt any local county or municipal ordinance regarding keg registration or the sale of beer in kegs. In addition, a county or municipality shall not adopt or continue in effect an ordinance regarding keg registration or the sale of beer in kegs.

d. The division shall establish by rule procedures relating to the forfeiture and remittance of deposits pursuant to paragraph “b”.

[C35, §1921-f120; C39, §1921.122; C46, 50, 54, 58, 62, 66, 71, §124.27; C73, 75, 77, 79, 81, §123.138]

88 Acts, ch 1241, §21; 89 Acts, ch 221, §9; 2007 Acts, ch 46, §2; 2013 Acts, ch 35, §40

Referred to in §123.50

[T] Subsection 1 amended

#### **123.139 Separate locations — class “A”, special class “A”.**

A class “A” or special class “A” permittee having more than one place of business is required to have a separate permit for each separate place of business maintained by the permittee where beer is stored, warehoused, or sold.

[C35, §1921-f121; C39, §1921.123; C46, 50, 54, 58, 62, 66, 71, §124.28; C73, 75, 77, 79, 81, §123.139]

89 Acts, ch 221, §10

#### **123.140 Separate locations — class “B” or “C”.**

Every person holding a class “B” or class “C” permit having more than one place of business where such beer is sold which places do not constitute a single premises within the meaning of section 123.3, subsection 25 shall be required to have a separate license for each separate place of business, except as otherwise provided by this chapter.

[C35, §1921-f122; C39, §1921.124; C46, 50, 54, 58, 62, 66, 71, §124.29; C73, 75, 77, 79, 81, §123.140]

#### **123.141 Keeping liquor where beer is sold.**

No alcoholic liquor for beverage purposes shall be used, or kept for any purpose in the place of business of class “B” permittees, or on the premises of such class “B” permittees, at any time. A violation of any provision of this section shall be grounds for suspension or revocation of the permit pursuant to section 123.50, subsection 3. This section shall not apply in any manner or in any way to the premises of any hotel or motel for which a class “B” permit has been issued, other than that part of such premises regularly used by the hotel or motel for the principal purpose of selling beer or food to the general public; or to drug stores

regularly and continuously employing a registered pharmacist, from having alcohol in stock for medicinal and compounding purposes.

[C35, §1921-g4; C39, §1921.126; C46, 50, 54, 58, 62, 66, 71, §124.31; C73, 75, 77, 79, 81, §123.141]

2011 Acts, ch 17, §14

#### **123.142 Unlawful sale and importation.**

It is unlawful for the holder of a class “B” or class “C” permit issued under this chapter to sell beer, except beer brewed on the premises covered by a special class “A” permit or beer purchased from a person holding a class “A” permit issued in accordance with this chapter, and on which the tax provided in section 123.136 has been paid. However, this section does not apply to class “D” liquor control licensees as provided in this chapter.

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

[C35, §1921-f124; C39, §1921.127; C46, 50, 54, 58, 62, 66, 71, §124.32; C73, 75, 77, 79, 81, §123.142]

89 Acts, ch 221, §11; 2011 Acts, ch 17, §15

#### **123.143 Distribution of funds.**

The revenues obtained from permit fees and the barrel tax collected under the provisions of this chapter shall be distributed as follows:

1. All retail beer permit fees collected by any local authority at the time application for the permit is made shall be retained by the local authority. A certified copy of the receipt for the permit fee shall be submitted to the division with the application and the local authority shall be notified at the time the permit is issued. Those amounts collected for the privilege authorized under section 123.134, subsection 5, shall be deposited in the beer and liquor control fund.

2. All permit fees and taxes collected by the division under this division shall accrue to the state general fund, except as otherwise provided.

3. Barrel tax revenues collected on beer manufactured in this state from a class “A” permittee which owns and operates a brewery located in Iowa shall be credited to the barrel tax fund hereby created in the office of the treasurer of state. Moneys deposited in the barrel tax fund shall not revert to the general fund of the state without a specific appropriation by the general assembly. Moneys in the barrel tax fund are appropriated to the economic development authority for purposes of section 15E.117.

[C35, §1921-f125; C39, §1921.128; C46, 50, 54, 58, 62, 66, 71, §124.33; C73, 75, 77, 79, 81, §123.143]

83 Acts, ch 123, §60, 209; 84 Acts, ch 1312, §7; 85 Acts, ch 198, §2; 87 Acts, ch 95, §1; 2010 Acts, ch 1188, §29; 2011 Acts, ch 118, §85, 89

Referred to in §15E.117, 125.59, 331.427

#### **123.144 Bottling beer.**

1. No person shall bottle beer within the state of Iowa, except class “A”, special class “A”, class “AA”, and special class “AA” permittees who have complete equipment for bottling beer and who have received the approval of the local board of health as to sanitation. It shall be the duty of local boards of health to inspect the premises and equipment of class “A”, special class “A”, class “AA”, and special class “AA” permittees who desire to bottle beer.

2. However, any person of legal age may bottle beer for personal use and if it is not sold or offered in exchange for any type of consideration. In addition, such beer may be removed from the premises where it was bottled for personal use if the beer is not sold or offered in exchange for any type of consideration.

[C35, §1921-g6; C39, §1921.131; C46, 50, 54, 58, 62, 66, 71, §124.36; C73, 75, 77, 79, 81, §123.144]

2013 Acts, ch 35, §41

[T] Section amended

**123.145 Labels on bottles, barrels, etc. — conclusive evidence.**

The label on any bottle, keg, barrel, or other container in which beer is offered for sale in this state, representing the alcoholic content of such beer as being in excess of five percent by weight shall be conclusive evidence as to the alcoholic content of the beer contained therein.

[C35, §1921-f128; C39, §1921.133; C46, 50, 54, 58, 62, 66, 71, §124.38; C73, 75, 77, 79, 81, §123.145]

2013 Acts, ch 30, §24

[T] Section amended

**123.146** Repealed by 85 Acts, ch 198, § 3.

**123.147 through 123.149** Reserved.

## DIVISION III

## SPECIAL PROVISIONS

**123.150 Sunday sales before New Year's Day.**

Notwithstanding section 123.36, subsection 5, section 123.49, subsection 2, paragraph "b", and section 123.134, subsection 5, a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer to patrons for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day. The liquor control license fee or beer permit fee of licensees and permittees permitted to sell or dispense liquor, wine, or beer on a Sunday when that Sunday is the day before New Year's Day shall not be increased because of this privilege.

The special privileges granted in this section are in force only during the specified times provided in this section.

[C79, 81, §123.150]

85 Acts, ch 195, §15; 86 Acts, ch 1122, §10; 91 Acts, ch 245, §5

**123.151** Repealed by 93 Acts, ch 91, § 22.

**123.152** Reserved.

## DIVISION IV

## WAREHOUSE PROJECT

**123.153 through 123.162** Repealed by 2011 Acts, ch 17, § 16.

**123.163 through 123.170** Reserved.

## DIVISION V

WINE PROVISIONS — CHARITY BEER  
AND WINE AUCTIONS**123.171 Wine certificate, permit, or license required.**

A person shall not cause the manufacture, importation, or sale of wine in this state unless a certificate or permit as provided in this division, or a liquor control license as provided in

division I of this chapter, is first obtained which authorizes that manufacture, importation, or sale.

85 Acts, ch 32, §62

**123.172 Effect on liquor control licensees.**

All applicable provisions of this division relating to class “B” wine permits apply to liquor control licensees in the purchasing, storage, handling, serving and sale of wine.

85 Acts, ch 32, §63

**123.173 Wine permits — classes — authority.**

1. Except as provided in section 123.187, permits exclusively for the sale or manufacture and sale of wine shall be divided into four classes, and shall be known as class “A”, “B”, “B” native, or “C” native wine permits.

2. 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 47. The holder of a class “A” wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight or twenty-one and twenty-five hundredths percent of alcohol by volume 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. 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.

3. A class “A” wine permittee shall be required to deliver wine to a retail wine permittee, and a retail wine permittee shall be required to accept delivery of wine from a class “A” wine permittee, only at the licensed premises of the 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 retail wine permittee’s premises, or from one licensed retail wine permittee’s premises to another licensed retail wine permittee’s premises, even if there is common ownership of all of the premises by one 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.

4. 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 a report to the division electronically, or in a manner prescribed by the administrator, not later than the tenth of each month 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.

85 Acts, ch 32, §64; 88 Acts, ch 1241, §22; 91 Acts, ch 203, §2, 3; 2003 Acts, ch 143, §7, 17; 2006 Acts, ch 1032, §2; 2010 Acts, ch 1031, §99; 2013 Acts, ch 35, §14

[T] Subsection 4 amended

**123.173A Charity beer, spirits, and wine auction permit.**

1. For purposes of this section, “*authorized nonprofit entity*” includes a nonprofit entity which has a principal office in the state, a nonprofit corporation organized under chapter 504,

or a foreign corporation as defined in section 504.141, whose income is exempt from federal taxation under section 501(c) of the Internal Revenue Code.

2. An authorized nonprofit entity may, upon application to the division and receipt of a charity beer, spirits, and wine auction permit from the division, conduct a charity auction which includes beer, spirits, and wine. The application shall specify the date and time when the charity beer, spirits, and wine auction is to be conducted and the premises in this state where the charity beer, spirits, and wine auction is to be physically conducted. The applicant shall certify that the objective of the charity beer, spirits, and wine auction is to raise funds solely to be used for educational, religious, or charitable purposes and that the entire proceeds from the charity beer, spirits, and wine auction are to be expended for any of the purposes described in section 423.3, subsection 78.

3. An authorized nonprofit entity shall be eligible to receive only two charity beer, spirits, and wine auction permits during a calendar year and each charity beer, spirits, and wine auction permit shall be valid for a period not to exceed thirty-six consecutive hours.

4. The authorized nonprofit entity conducting the charity beer, spirits, and wine auction shall obtain the beer, spirits, and wine to be auctioned at the charity beer, spirits, and wine auction from an Iowa retail beer permittee, an Iowa retail liquor control licensee, or an Iowa retail wine permittee, or may receive donations of beer, spirits, or wine to be auctioned at the charity beer, spirits, and wine auction from persons who purchased the donated beer, spirits, or wine from an Iowa retail beer permittee, an Iowa retail liquor control licensee, an Iowa micro-distilled spirits permittee, or an Iowa retail wine permittee and who present a receipt documenting the purchase at the time the beer, spirits, or wine is donated. The authorized nonprofit entity conducting the charity beer, spirits, and wine auction shall retain a copy of the receipt for a period of one year from the date of the charity beer, spirits, and wine auction.

5. Persons shall be physically present at the charity beer, spirits, and wine auction to be eligible to bid on beer, spirits, and wine sold at the charity auction.

6. The beer, spirits, and wine sold at the charity beer, spirits, and wine auction shall be in original containers for consumption off of the premises where the charity beer, spirits, and wine auction is conducted. No other alcoholic beverage may be sold by the charity beer, spirits, and wine auction permittee at the charity beer, spirits, and wine auction. A purchaser of beer, spirits, or wine at a charity beer, spirits, and wine auction shall not take possession of the beer, spirits, or wine until the person is leaving the event. A purchaser of beer, spirits, or wine at a charity beer, spirits, and wine auction shall not open the container or consume or permit the consumption of the beer, spirits, or wine purchased on the premises where the charity beer, spirits, and wine auction is conducted. A purchaser of beer, spirits, or wine at a charity beer, spirits, and wine auction shall not resell the beer, spirits, or wine.

7. A liquor control licensee, beer permittee, micro-distilled spirits permittee, or wine permittee shall not purchase beer, spirits, or wine at a charity beer, spirits, and wine auction. The charity beer, spirits, and wine auction may be conducted on a premises for which a class "B" liquor control license or class "C" liquor control license has been issued, provided that the liquor control licensee does not participate in the charity beer, spirits, and wine auction, supply beer, spirits, or wine to be auctioned at the charity beer, spirits, and wine auction, or receive any of the proceeds of the charity beer, spirits, and wine auction.

2010 Acts, ch 1031, §85; 2013 Acts, ch 51, §1

[T] Section amended

#### **123.174 Issuance of wine permits.**

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

85 Acts, ch 32, §65; 2003 Acts, ch 143, §8, 17

#### **123.175 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 an application electronically, or in a manner prescribed by the administrator, for the permit which shall state 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. 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 34.
    - 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 a manner prescribed by the administrator 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.
- 85 Acts, ch 32, §66; 88 Acts, ch 1241, §23; 2003 Acts, ch 143, §9, 17; 2013 Acts, ch 35, §15, 16  
 [T] Subsection 1, unnumbered paragraph 1 amended  
 [T] Subsection 3 amended

**123.176** Repealed by 2003 Acts, ch 143, § 15, 17. See § 123.175.

**123.177 Authority under class “A” permit.**

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 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.
  2. A class “A” wine permit holder may purchase and resell only those brands of wine which are manufactured, fermented, bottled, shipped, or imported by a person holding a certificate of compliance issued pursuant to section 123.180.
- 85 Acts, ch 32, §68; 88 Acts, ch 1241, §25; 93 Acts, ch 91, §21; 2003 Acts, ch 143, §10, 17

**123.178 Authority under class “B” permit.**

1. A person holding a class “B” wine permit may sell wine at retail for consumption off the premises. Wine shall be sold for consumption off the premises in original containers only.
  2. A class “B” 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” wine permit may purchase wine for resale only from a person holding a class “A” wine permit.
- 85 Acts, ch 32, §69; 86 Acts, ch 1246, §752  
 Referred to in §123.32

**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.
- 2003 Acts, ch 143, §11, 17  
 Referred to in §123.32

**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.

4. A person holding a class “C” native wine permit and a class “A” wine permit whose primary purpose is manufacturing native wine may purchase beer from a wholesaler holding a class “A” beer permit for sale at retail.

2003 Acts, ch 143, §12, 17; 2009 Acts, ch 104, §1

Referred to in §123.32, 123.56

**123.179 Permit fees.**

1. The annual permit fee for a class “A” wine permit is seven hundred fifty dollars.

2. The annual permit fee for a class “B” wine permit is five hundred dollars.

3. The annual permit fee for a class “B” native wine permit is twenty-five dollars.

4. The annual permit fee for a class “C” native wine permit is twenty-five dollars.

5. The fee for a charity beer, spirits, and wine auction permit is one hundred dollars.

85 Acts, ch 32, §70; 2003 Acts, ch 143, §13, 17; 2010 Acts, ch 1031, §86; 2013 Acts, ch 51, §2

Referred to in §123.56

[T] Subsection 5 amended

**123.180 Vintner’s certificate of compliance — wholesale and retail restrictions — penalty.**

1. A manufacturer, vintner, bottler, importer, or vendor of wine or an agent thereof desiring to ship, sell, or have wine brought into this state for resale by the division or for sale at wholesale by a class “A” permittee shall first make application for and shall be issued a vintner’s certificate of compliance by the administrator for that purpose. The vintner’s certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise revoked for cause. Each application for a vintner’s certificate of compliance or renewal of a certificate shall be submitted electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of one hundred dollars payable to the division. Each holder of a vintner’s certificate of compliance shall furnish the information required by the administrator in the form the administrator requires. A vintner or wine bottler whose plant is located in Iowa and who otherwise holds a class “A” wine permit to sell wine at wholesale is exempt from the fee, but not the other terms and conditions. The holder of a vintner’s certificate of compliance may also hold a class “A” wine permit.

2. At the time of applying for a vintner’s certificate of compliance, each applicant shall file with the division a list of all class “A” wine permittees with whom it intends to do business. The listing of class “A” wine permittees as filed with the division may be amended from time to time by the holder of the certificate of compliance.

3. All class “A” wine permit holders shall sell only those brands of wine which are manufactured, bottled, fermented, shipped, or imported by a person holding a current vintner’s certificate of compliance. An employee or agent working for or representing the holder of a vintner’s certificate of compliance within this state shall register the employee’s or agent’s name and address with the division. These names and addresses shall be filed with the division’s copy of the certificate of compliance issued except that this provision does not require the listing of those persons who are employed on the premises of a bottling plant, or winery where wine is manufactured, fermented, or bottled in Iowa or the listing of those persons who are thereafter engaged in the transporting of the wine.

4. It is unlawful for a holder of a vintner’s certificate of compliance or the holder’s agent, or any class “A” wine permittee or the permittee’s agent, to discriminate between class “B” wine permittees authorized to sell wine at retail.

5. It is unlawful for a holder of a vintner’s certificate of compliance or the vintner’s agent

who is engaged in the business of selling wine to class “A” wine permittees to discriminate between class “A” wine permittees authorized to sell wine at wholesale.

6. Regardless of any other penalties provided by this chapter, any holder of a certificate of compliance relating to wine or a class “A” permittee who violates this chapter or the rules adopted pursuant to this chapter is subject to a civil penalty not to exceed one thousand dollars or subject to suspension of the certificate of compliance or permit for a period not to exceed one year, or to both civil penalty and suspension. Civil penalties imposed under this section shall be collected and retained by the division.

85 Acts, ch 32, §71; 89 Acts, ch 161, §8; 89 Acts, ch 252, §4; 2012 Acts, ch 1021, §39; 2013 Acts, ch 35, §17

Referred to in §123.177  
[T] Subsection 1 amended

### **123.181 Prohibited acts.**

1. A holder of any class “B” wine permit shall not sell wine except wine which is purchased from a person holding a class “A” wine permit and on which the tax imposed by section 123.183 has been paid or wine purchased from a manufacturer of native wines.

2. A class “A” wine permittee shall not sell wine on credit to a retail liquor licensee or wine permittee for a period exceeding thirty days from date of delivery.

85 Acts, ch 32, §72; 89 Acts, ch 252, §5

### **123.182 Labels — point of origin — conclusive evidence.**

All imported bulk wines to be bottled and distributed in the state shall have the point of origin stated on the label. The print size for the point of origin shall be at least half the print size of the brand name on the label.

The label on a bottle or other container in which wine is offered for sale in this state, which label represents the alcoholic content of the wine as being in excess of seventeen percent by weight or twenty-one and twenty-five hundredths percent of alcohol by volume, is conclusive evidence of the alcoholic content of that wine.

85 Acts, ch 32, §73; 2006 Acts, ch 1032, §3

### **123.183 Wine gallonage tax and related funds.**

1. In addition to the annual permit fee to be paid by each class “A” wine permittee, a wine gallonage tax shall be levied and collected from each class “A” wine permittee on all wine manufactured for sale and sold in this state at wholesale and on all wine imported into this state for sale at wholesale and sold in this state at wholesale. A wine gallonage tax shall also be levied and collected on the direct shipment of wine pursuant to section 123.187. The rate of the wine gallonage tax is one dollar and seventy-five cents for each wine gallon. The same rate shall apply for the fractional parts of a wine gallon. The wine gallonage tax shall not be levied or collected on wine sold by one class “A” wine permittee to another class “A” wine permittee.

2. a. Revenue collected from the wine gallonage tax on wine manufactured for sale and sold in this state, and on wine subject to direct shipment as provided in section 123.187 by a wine manufacturer licensed or permitted pursuant to laws regulating alcoholic beverages in this state, shall be deposited in the wine gallonage tax fund as created in this section.

b. (1) A wine gallonage tax fund is created in the office of the treasurer of state.

(2) Moneys deposited in the fund are appropriated as follows:

(a) To the midwest grape and wine industry institute at Iowa state university of science and technology, two hundred fifty thousand dollars.

(b) To the economic development authority for purposes of section 15E.117, the balance of moneys in the fund after the appropriation in subparagraph division (a).

(3) Moneys in the fund and moneys appropriated from the fund pursuant to subparagraph (2) are not subject to reversion under section 8.33.

3. The revenue collected from the wine gallonage tax on wine imported into this state for sale at wholesale and sold in this state at wholesale, and on wine subject to direct shipment as provided in section 123.187 by a wine manufacturer licensed or permitted pursuant to

laws regulating alcoholic beverages in another state, shall be deposited in the beer and liquor control fund created in section 123.53.

85 Acts, ch 32, §74; 85 Acts, ch 198, §4, 5; 86 Acts, ch 1246, §753; 87 Acts, ch 95, §2; 2001 Acts, ch 162, §1; 2002 Acts, ch 1050, §15; 2003 Acts, ch 143, §14, 17; 2005 Acts, ch 113, §1; 2007 Acts, ch 211, §41; 2010 Acts, ch 1193, §164; 2011 Acts, ch 118, §85, 89; 2011 Acts, ch 130, §29, 71; 2012 Acts, ch 1136, §26

Referred to in §15E.117, 123.181, 123.184, 123.187

#### **123.184 Report of gallonage sales — penalty.**

Each class “A” wine permit holder on or before the tenth day of each calendar month commencing on the tenth day of the calendar month following the month in which the person is issued a permit, shall make a report under oath to the division electronically, or in a manner prescribed by the administrator, showing the exact number of gallons of wine and fractional parts of gallons, sold by that permit holder during the preceding calendar month. The report also shall state whatever reasonable additional information the administrator requires. The permit holder at the time of filing this report shall pay to the division the amount of tax due at the rate fixed in section 123.183. A penalty of ten percent of the amount of the tax shall be assessed and collected if the report is not filed and the tax paid within the time required by this section.

85 Acts, ch 32, §75; 2013 Acts, ch 35, §18

Referred to in §123.187

[T] Section amended

#### **123.185 Records required.**

Each class “A” wine permittee shall keep records showing each sale of wine, which shall be at all times open to inspection by the administrator and pursuant to section 123.30, subsection 1. Each class “B” wine permittee shall keep proper records showing each purchase of wine and the date and the amount of each purchase and the name of the person from whom each purchase was made, which shall be open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the permittee.

85 Acts, ch 32, §76; 88 Acts, ch 1241, §26; 2013 Acts, ch 35, §42

[T] Section amended

#### **123.186 Federal regulations adopted as rules.**

1. The division shall adopt as rules the substance of the federal regulations 27 C.F.R. pt. 6, 27 C.F.R. pt. 8, 27 C.F.R. pt. 10, and 27 C.F.R. pt. 11 as they relate to transactions between wholesalers and retailers.

2. The division shall adopt as rules the substance of 27 C.F.R. § 6.88, to permit a manufacturer of alcoholic beverages, wine, or beer, or an agent of such manufacturer, to provide to a retailer without charge wine and beer coil cleaning services, including carbon dioxide filters and other necessary accessories to properly clean the coil and affix carbon dioxide filters. The rules shall provide that the manufacturer shall be responsible for paying the costs of any filters provided.

85 Acts, ch 32, §77; 2006 Acts, ch 1061, §1; 2007 Acts, ch 22, §36

#### **123.187 Direct shipment of wine — licenses and requirements.**

1. A wine manufacturer licensed or permitted pursuant to laws regulating alcoholic beverages in this state or another state may apply for a wine direct shipper license, as provided in this section. For the purposes of this section, a “*wine manufacturer*” means a person who processes the fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients, by fermentation into wines.

2. a. The administrator shall issue a wine direct shipper license to a wine manufacturer who submits an application for the license electronically, or in a manner prescribed by the administrator, accompanied by a true copy of the manufacturer’s current alcoholic beverage license or permit and a copy of the manufacturer’s winery license issued by the federal alcohol and tobacco tax and trade bureau.

b. An application submitted pursuant to paragraph “a” shall be accompanied by a license fee in the amount of twenty-five dollars.

c. An application submitted pursuant to paragraph “a” shall also be accompanied by 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.

d. A license issued pursuant to this section may be renewed annually by resubmitting the information required in paragraph “a”, accompanied by the twenty-five dollar license fee.

3. The direct shipment of wine pursuant to this section shall be subject to the following requirements and restrictions:

a. Wine may only be shipped by a wine direct shipper licensee to a resident of this state who is at least twenty-one years of age, for the resident’s personal use and consumption and not for resale.

b. Wine subject to direct shipping shall be properly registered with the federal alcohol and tobacco tax and trade bureau, and fermented on the winery premises of the wine direct shipper licensee.

c. All containers of wine shipped directly to a resident of this state shall be conspicuously labeled with the words “CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY” or shall be conspicuously labeled with alternative wording preapproved by the administrator.

d. All containers of wine shipped directly to a resident of this state shall be shipped by an alcohol carrier licensed as provided in subsection 6.

4. a. In addition to the annual license fee, a wine direct shipper licensee shall remit to the division an amount equivalent to the wine gallonage tax on wine subject to direct shipment at the rate specified in section 123.183 for deposit as provided in section 123.183, subsections 2 and 3. The amount shall be remitted at the same time and in the same manner as provided in section 123.184, and the ten percent penalty specified therein shall be applicable.

b. Shipment of wine pursuant to this subsection does not require a refund value for beverage container control purposes under chapter 455C.

5. A wine direct shipper licensee shall be deemed to have consented to the jurisdiction of the division or any other agency or court in this state concerning enforcement of this section and any related laws, rules, or regulations. A licensee shall permit the division to perform an audit of shipping records upon request.

6. a. Wine subject to direct shipment within this state pursuant to this section shall be delivered only by a carrier having obtained from the division an alcohol carrier license. An alcohol carrier license shall be issued upon payment of a one hundred dollar license fee, and shall be subject to requirements, and issued pursuant to application forms, to be determined by the administrator by rule.

b. An alcohol carrier licensee shall not deliver wine to any person under twenty-one years of age, or to any person who either is or appears to be in an intoxicated state or condition. A licensee shall obtain valid proof of identity and age prior to delivery, and shall obtain the signature of an adult as a condition of delivery.

c. An alcohol carrier licensee shall maintain records of wine shipped which include the license number and name of the wine manufacturer, quantity of wine shipped, recipient’s name and address, and an electronic or paper form of signature from the recipient of the wine. Records shall be submitted to the division on a monthly basis in a form and manner to be determined by the division by rule.

7. A violation of this section shall subject a licensee to the penalty provisions of section 123.39.

96 Acts, ch 1101, §1; 2003 Acts, 1st Ex, ch 2, §158, 205; 2010 Acts, ch 1031, §100; 2010 Acts, ch 1193, §165; 2013 Acts, ch 35, §19

Referred to in §123.46A, 123.56, 123.173, 123.183

[T] Subsection 2, paragraph a amended