

**ALCOHOLIC BEVERAGES DIVISION[185]**

Created within the Department of Commerce by 1986 Iowa Acts, Senate File 2175.  
Formerly Beer and Liquor Control Department[150]

**CHAPTERS 1 to 3**

Reserved

**CHAPTER 4****RETAIL ALCOHOL LICENSES—BEER PERMITS—WINE PERMITS**

4.1(123)	Definitions
4.2(123)	General requirements
4.3(123)	Local ordinances permitted
4.4(123)	Licensed premises
4.5(123)	Mixed drinks or cocktails not for immediate consumption
4.6(123)	Filling and selling of beer in a container other than the original container
4.7(123)	Improper conduct
4.8(123)	Violation by agent, servant or employee
4.9(123)	Gambling evidence
4.10(123)	Filling and selling of mixed drinks or cocktails in a container other than the original container
4.11(123)	Filling and selling of wine and native wine in a container other than the original container
4.12(123)	Display of license, permit, or signs
4.13(123)	Outdoor service
4.14(123)	Revocation or suspension by local authority
4.15(123)	Suspension of retail alcohol license, wine permit, or beer permit
4.16	Reserved
4.17(123)	Prohibited storage of alcoholic beverages
4.18(123)	Transfer of license or permit to another location
4.19(123)	Execution and levy on alcoholic liquor, wine, and beer
4.20(123)	Class "E" retail alcohol licensee methods of payment accepted
4.21 and 4.22	Reserved
4.23(123)	Liquor on unlicensed places
4.24	Reserved
4.25(123)	Age requirements
4.26(123)	Timely filed status
4.27(123)	Effect of suspension
4.28(123)	Use of establishment during hours alcoholic beverages cannot be consumed
4.29	Reserved
4.30(123)	Persons producing fuel alcohol
4.31	Reserved
4.32(123)	Delivery of alcoholic liquor
4.33	Reserved
4.34(123)	Determination of population
4.35(123)	Minors in licensed establishments
4.36(123)	Sale of alcoholic beverages stock when licensee sells business
4.37 to 4.39	Reserved
4.40(123)	Warehousing of beer and wine
4.41(123)	Vending machines to dispense alcoholic beverages prohibited

**CHAPTER 5****LICENSE AND PERMIT DIVISION**

5.1(123)	Manufacture and sale of native wine
5.2(123)	Production of a native distillery
5.3 to 5.6	Reserved
5.7(123)	Change of ownership of a licensed premises, new license or permit required
5.8(123)	Dramshop liability insurance requirements
5.9(123)	Surety bond requirements

## CHAPTERS 6 and 7

Reserved

## CHAPTER 8

## TRANSPORTATION AND WAREHOUSE

8.1(123)	Definitions
8.2(123)	Listing classifications
8.3(123)	Listing requests
8.4(123)	Shipment of product to the division
8.5(123)	Inventory levels
8.6(123)	Pricing
8.7(123)	Delisting
8.8(123)	Barrel programs

## CHAPTER 9

## PERSONAL IMPORTATION OF ALCOHOLIC LIQUOR, WINE, AND BEER

9.1(123)	Tax liability
9.2(123)	Personal importation in excess of the amounts provided—waiver

## CHAPTERS 10 to 13

Reserved

## CHAPTER 14

## PRIVATE WINE SALES

14.1(123)	Wine definition
14.2(123)	Bottle label requirements and registration
14.3	Reserved
14.4(123)	Price postings by all holders of vintner's certificates of compliance
14.5(123)	Price postings
14.6	Reserved
14.7(123)	Supplier discrimination

## CHAPTER 15

Reserved

## CHAPTER 16

## TRADE PRACTICES

16.1(123)	Definitions
16.2(123)	Product displays
16.3(123)	Retailer advertising utensils, consumer advertising specialties, retailer wearing apparel
16.4	Reserved
16.5(123)	Glassware
16.6(123)	Tapping accessories and coil cleaning service
16.7(123)	Tasting
16.8(123)	Sampling
16.9(123)	Trade spending
16.10(123)	Discounts
16.11(123)	Combination packaging
16.12(123)	Consumer promotions
16.13(123)	Advertising, display or distribution service
16.14(123)	Stocking and product rotation
16.15(123)	Sponsorships and special events
16.16(123)	Participation in educational seminars and retail association activities
16.17	Reserved
16.18(123)	Record keeping
16.19 to 16.39	Reserved
16.40(123)	Equipment, furnishings, fixtures
16.41	Reserved
16.42(123)	Free warehousing prohibited

16.43(123)	Extension of credit and prepaid accounts
16.44(123)	Quota sales
16.45(123)	Tie-in sales
16.46 to 16.59	Reserved
16.60(123)	Contracts to purchase alcoholic liquor, wine, or beer
16.61 to 16.74	Reserved
16.75(123)	Commercial bribery
16.76 to 16.89	Reserved
16.90(123)	Consignment sales
16.91(123)	Return of alcoholic liquor, wine, and beer
16.92 to 16.104	Reserved
16.105(123)	Contested case—burden



CHAPTER 1  
ORGANIZATION AND OPERATION  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]  
Rescinded **ARC 8932C**, IAB 2/19/25, effective 3/26/25

CHAPTER 2  
AGENCY PROCEDURE FOR RULE MAKING  
[Ch 2, IAC 7/1/75 rescinded 3/7/79; see Ch 4]  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]  
Rescinded **ARC 8932C**, IAB 2/19/25, effective 3/26/25

CHAPTER 3  
DECLARATORY ORDERS  
[Ch 3, IAC 7/1/75 rescinded 3/7/79; see Ch 4]  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]  
Rescinded **ARC 8932C**, IAB 2/19/25, effective 3/26/25



CHAPTER 4  
RETAIL ALCOHOL LICENSES—BEER PERMITS—WINE PERMITS

[Ch 4, IAC 7/1/75 rescinded 3/7/79; see Chs 4,5]  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**185—4.1(123) Definitions.**

“*Act*” means the alcoholic beverage control Act.

“*Administrator*” means the chief administrative officer of the alcoholic beverages division or a designee.

“*Beverages*” as used in Iowa Code section 123.3(21) does not include any alcoholic beverage as defined in Iowa Code section 123.3(4).

“*Division*” means the alcoholic beverages division of the department of commerce.

This rule is intended to implement Iowa Code sections 123.3 and 123.4.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.2(123) General requirements.** All applicants for licenses, permits, or certificates of compliance shall comply with the following requirements, where applicable, prior to receiving a license, permit, or certificate of compliance.

**4.2(1) *Cleanliness of premises.*** The interior and exterior of the licensed premises shall be kept clean, free of litter or rubbish, painted and in good repair. Licensees and permittees shall at all times keep and maintain their respective premises in compliance with the laws, orders, ordinances and rules of the state, county and city health and fire departments, and the Iowa department of inspections and appeals.

**4.2(2) *Toilet facilities.*** All licensees and permittees who mix, serve, or sell alcoholic beverages for consumption on the licensed premises shall provide for their patrons adequate, conveniently located indoor or outdoor toilet facilities. Compliance with county, city, and department of inspections and appeals’ rules and regulations regarding toilet facilities, including any waivers granted by those authorities, shall constitute compliance with this rule. Outdoor toilet facilities shall be approved by the department of inspections and appeals and the local approving authority where the licensed premises is located.

**4.2(3) *Water.*** All licensed premises shall be equipped with hot and cold running water from a source approved by an authorized health department.

**4.2(4) *Financial standing and reputation.*** A local authority or the administrator may consider an applicant’s financial standing and good reputation in addition to the other requirements and conditions for obtaining a license, permit, or certificate of compliance, and the local authority or the administrator shall disapprove or deny an application for a license, permit, or certificate of compliance if the applicant fails to demonstrate that the applicant complies with the lawful requirements and conditions for holding the license, permit, or certificate of compliance.

*a.* In evaluating an applicant’s “financial standing,” the local authority or the administrator may consider such factors as, but not limited to, the following:

(1) Verified source(s) of financial support and adequate operating capital for the applicant’s proposed establishment.

(2) A record of timely submission of all required federal, state, or local tax returns or forms and prompt payment of all taxes due.

(3) A record of prompt payment to the local authority of fees or charges made by a local authority for municipal utilities or other municipal services incurred in conjunction with the proposed establishment.

(4) A record of prompt payment or satisfaction of administrative penalties imposed pursuant to Iowa Code chapter 123.

(5) A record of maintaining, and providing prompt payment for, dramshop liability insurance coverage as required pursuant to Iowa Code chapter 123.

(6) A record of prompt payment for license, permit, or certificate fees.

(7) A record of prompt payment for alcoholic liquor orders placed with the division.

*b.* In evaluating an applicant’s “good reputation,” the local authority or the administrator may consider such factors as, but not limited to, the following:

(1) A pattern or practice of sales of alcoholic beverages to persons under the legal age for which the licensee or permittee, or the licensee’s or permittee’s agents or employees, have pled or have been found guilty.

(2) A pattern or practice by the licensee or permittee, or the licensee’s or permittee’s agents or employees, of violating alcoholic beverages laws and regulations for which corrective action has been taken since the previous license or permit was issued.

(3) Sales to intoxicated persons.

(4) Licensee or permittee convictions for violations of laws relating to operating a motor vehicle while under the influence of drugs or alcohol and the recency of such convictions.

(5) Licensee or permittee misdemeanor convictions and the recency of such convictions.

(6) A pattern or practice by the licensee or permittee, or the licensee’s or permittee’s agents or employees, of failing to cooperate with the department of public safety, the division, the county attorney, the county sheriff and sheriff’s deputies, the city police department, or the city attorney.

(7) A pattern or practice by the licensee or permittee of violating local ordinances established by the local authority pursuant to Iowa Code section 123.39(2).

(8) A pattern or practice by the licensee of failing to report any change in the ownership or interest of the business pursuant to Iowa Code section 123.39(1) “b”(3).

This rule is intended to implement Iowa Code sections 123.3(40) and 123.10(11).

[ARC 5392C, IAB 1/13/21, effective 2/17/21; ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.3(123) Local ordinances permitted.** The foregoing rules shall in no way be construed as to prevent any county, city or town from adopting ordinances or regulations, which are more restrictive, governing licensed establishments within their jurisdiction.

This rule is intended to implement Iowa Code section 123.39.

**185—4.4(123) Licensed premises.** The following criteria must be met before a “place” (as used in Iowa Code section 123.3(29)) may be licensed as a “place susceptible of precise description satisfactory to the administrator.”

**4.4(1)** The “place” must be owned by or under the control of the prospective licensee or permittee.

**4.4(2)** The “place” must be solely within the jurisdiction of one local approving authority.

**4.4(3)** The “place” must be described by a sketch of the “premises” as defined in Iowa Code section 123.3(29) and showing the boundaries of the proposed “place”; showing the locations of selling/serving areas within the confines of the “place”; showing all entrances and exits; and indicating the measurements of the “place” and distances between selling/serving areas.

**4.4(4)** The “place” must satisfy the health, safety, fire and seating requirements of the division, local authorities and the Iowa department of inspections and appeals.

**4.4(5)** Any other criteria as required by the administrator.

This rule is intended to implement Iowa Code sections 123.3(29) and 123.4.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.5(123) Mixed drinks or cocktails not for immediate consumption.** A class “C,” class “D,” or class “F” retail alcohol licensee may mix, store, and allow the consumption of mixed drinks or cocktails which are not for immediate consumption for up to 72 hours, subject to the requirements and restrictions provided in Iowa Code section 123.49(2) “d” and this rule.

**4.5(1) Definitions.**

“*Immediate consumption,*” for the purposes of this rule, means the compounding and fulfillment of a mixed drink or cocktail order upon receipt of the order for the mixed drink or cocktail.

“*Mixed drink or cocktail,*” for the purposes of this rule, means an alcoholic beverage as defined in Iowa Code section 123.3(32).

**4.5(2) Location.** Mixed drinks or cocktails which are not for immediate consumption shall be mixed, stored, and consumed on the retail alcohol licensed premises.

**4.5(3) Quantity.** A mixed drink or cocktail which is not for immediate consumption shall be mixed and stored in, and dispensed from, a labeled container in a quantity not to exceed three gallons.

**4.5(4) Container:** A mixed drink or cocktail which is not for immediate consumption shall at all times be in a container compliant with applicable state and federal food safety statutes and regulations.

*a.* The mixed drink or cocktail shall be mixed and remain stored in the same container.

*b.* The mixed drink or cocktail shall be removed from the stored container for one of the following dispensing purposes:

(1) To compound and fulfill a mixed drink or cocktail order upon receipt of the order for the mixed drink or cocktail.

(2) For transfer into a pourable container. The pourable container shall have affixed a label compliant with subrule 4.5(5) displaying label information identical to that on the container from which the contents were poured. The expiration date and time shall not be extended by the transfer of product to a pourable container.

*c.* The mixed drink or cocktail may be strained into another container when each of the following conditions is met:

(1) The mixed drink or cocktail is returned without delay to the labeled container from which it was strained.

(2) The container and process are compliant with applicable state and federal food safety statutes and regulations.

*d.* An original package of alcoholic liquor as purchased from the division or an original package of wine shall not be used to mix, store, or dispense a mixed drink or cocktail, pursuant to Iowa Code section 123.49(2) “*d*” and “*e*.”

*e.* The mixed drink or cocktail shall not be mixed, stored, or dispensed from a container bearing an alcoholic beverage name brand.

**4.5(5) Label.** A label shall be placed on a container when the contents of the mixed drink or cocktail are placed into the empty container.

*a.* Contents are defined in subrule 4.5(6).

*b.* The label shall be subject to the following requirements and restrictions:

(1) The label shall be affixed to the container in a conspicuous place.

(2) The label shall legibly identify the month, day, and year the contents are placed into the empty container.

(3) The label shall legibly identify the time the contents were placed into the empty container. The time shall be reported to the minute utilizing the 12-hour clock, and include either the ante meridian (AM) or post meridian (PM) part of time.

(4) The label shall legibly identify the month, day, and year the contents expire.

(5) The label shall legibly identify the time the contents expire. The time shall be reported in the same manner as reported in subparagraph 4.5(5) “*b*”(4).

(6) The label shall legibly specify the title of the recipe used for the contents of the container.

(7) The label shall legibly identify the person who prepared the contents of the container.

(8) The label shall legibly identify the size of the batch within the container and be conspicuously marked with the words “CONTAINS ALCOHOL.”

(9) The label shall be removed from the container once the entire contents have been consumed, transferred to a pourable container pursuant to subparagraph 4.5(4) “*b*”(2), or destroyed and disposed of in accordance with applicable law.

(10) A label shall not be reused, nor shall a removed label be reapplied to a container.

(11) A new label, subject to the requirements and restrictions of paragraph 4.5(5) “*b*,” shall be placed on the container for each prepared batch of mixed drinks or cocktails which is not for immediate consumption.

*c.* A licensee may access a label template on the website of the division located at [www.IowaABD.com](http://www.IowaABD.com).

**4.5(6) Contents.** Contents include alcoholic beverages, nonalcoholic ingredients, or combination thereof, which are not for immediate consumption.

a. A licensee is limited to utilizing alcoholic beverages in the mixed drink or cocktail which are authorized by the license.

b. A licensee shall utilize alcoholic beverages in the mixed drink or cocktail which are obtained as prescribed by Iowa Code chapter 123.

c. The added flavors and other nonbeverage ingredients of the mixed drink or cocktail shall not include hallucinogenic substances, added caffeine or added stimulants including but not limited to guarana, ginseng, and taurine, or a controlled substance as defined in Iowa Code section 124.401.

**4.5(7) Disposal.**

a. Any mixed drink or cocktail, or portion thereof, not consumed within 72 hours of the contents' being placed into the empty container is expired and shall be destroyed and disposed of in accordance with applicable law.

b. An expired mixed drink or cocktail which is not for immediate consumption shall not be:

(1) Added to an empty container and relabeled; or

(2) Added to another mixed drink or cocktail which is not for immediate consumption.

**4.5(8) Records.** A licensee shall maintain accurate and legible records for each prepared batch of mixed drinks or cocktails which is not for immediate consumption.

a. Records shall contain:

(1) The month, day, and year the contents are placed into the empty container.

(2) The time the contents are placed into the empty container. The time shall be reported in the same manner as reported in subparagraph 4.5(5) "b"(4).

(3) Each alcoholic beverage, including the brand and the amount, placed in the container. The amount of each alcoholic beverage shall be reported utilizing the metric system.

(4) Each nonalcoholic ingredient placed in the container.

(5) The recipe title and directions for preparing the contents of the container.

(6) The size of the batch.

(7) The identity of the person who prepared the contents of the container.

(8) The month, day, and year the contents of the container are destroyed and disposed of or entirely consumed.

(9) The time the contents of the container are destroyed and disposed of or entirely consumed. The time shall be reported in the same manner as reported in subparagraph 4.5(5) "b"(4).

(10) The method of destruction and disposal or shall specify that the entire contents were consumed.

(11) The identity of the person who destroyed and disposed of the contents, if the contents were not consumed.

b. A licensee may access record-keeping forms on the website of the division located at [www.IowaABD.com](http://www.IowaABD.com), by sending a request by fax to (515)281-7375, or by sending a request by mail to Alcoholic Beverages Division, 1918 SE Hulsizer Road, Ankeny, Iowa 50021.

c. Records shall be maintained on the licensed premises for a period of three years and shall be open to inspection pursuant to Iowa Code section 123.33.

**4.5(9) Dispensing machines.** A dispensing machine which contains a mixed drink or cocktail with alcoholic beverages is subject to the requirements and restrictions of this rule.

**4.5(10) Food safety compliance.** A licensee who mixes, stores, and allows the consumption of mixed drinks or cocktails which are not for immediate consumption shall comply with all applicable state and federal food safety statutes and regulations.

**4.5(11) Federal alcohol compliance.** A licensee who mixes, stores, and allows the consumption of mixed drinks or cocktails which are not for immediate consumption shall comply with all applicable federal statutes and regulations. Prohibitions include but are not limited to processing with non-tax-paid alcoholic liquor, aging alcoholic liquor in barrels, heating alcoholic liquor, bottling alcoholic liquor, and refilling alcoholic liquor or wine bottles.

**4.5(12) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee to the penalty provisions of Iowa Code section 123.39.

This rule is intended to implement Iowa Code section 123.49(2).

[ARC 7073C, IAB 9/20/23, effective 10/25/23; Editorial change: IAC Supplement 11/15/23]

**185—4.6(123) Filling and selling of beer in a container other than the original container.** Class “B,” class “C,” special class “C,” and class “E” retail alcohol licensees and the licensee’s employees may fill, refill, and sell beer in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code section 123.31A and this rule.

**4.6(1) Definitions.**

“*Beer*,” for the purposes of this rule, means “beer” as defined in Iowa Code section 123.3(7) and “high alcoholic content beer” as defined in Iowa Code section 123.3(22).

“*Growler*,” for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold beer or high alcoholic content beer.

“*Original container*,” for the purposes of this rule, means a vessel containing beer that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture. For special class “A” beer permit holders, an “original container” includes a tank used for storing and serving beer.

**4.6(2) Filling and refilling requirements.**

- a. A growler shall have the capacity to hold no more than 72 ounces.
- b. A growler shall be filled or refilled only by the licensee or permittee or the licensee’s or permittee’s employees who are 18 years of age or older.
- c. A growler shall be filled or refilled only on demand by a consumer at the time of the sale.
- d. A growler shall be filled or refilled only with beer from the original container procured from a class “A” beer permittee unless the beer being used to fill or refill a growler on the premises of a special class “A” beer permit holder was manufactured by that special class “A” beer permit holder on the permitted premises.
- e. A retailer may exchange a growler to be filled or refilled.
- f. The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

**4.6(3) Sealing requirements.** A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or permittee or the licensee’s or permittee’s employees in the following manner:

- a. A growler shall bear a cap, lid, stopper, or plug.
- b. A plastic heat shrink wrap band, strip, or sleeve shall extend around the cap or lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer shall not require a plastic heat shrink wrap band, strip, or sleeve.
- c. The heat shrink wrap seal shall be so secure that it is visibly apparent when the seal on a growler has been tampered with or a sealed growler has otherwise been reopened.
- d. A growler shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed growler is unopened and the seal has not been tampered with and the contents of the growler have not been partially removed.

**4.6(4) Restrictions.**

- a. A growler shall not be filled in advance of a sale.
- b. A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.
- c. A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.
- d. A licensee or permittee or a licensee’s or permittee’s employees shall not allow a consumer to fill or refill a growler.
- e. The filling, refilling and selling of a growler shall be limited to the hours in which alcoholic beverages may be legally sold.
- f. A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.
- g. An original container shall only be opened on the premises of a class “B” or class “E” retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

**4.6(5) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code section 123.31A.

**185—4.7(123) Improper conduct.**

**4.7(1) *Illegality on premises.*** No retail alcohol licensee, or the licensee's agent or employee, shall engage in any illegal occupation or illegal act on the licensed premises.

**4.7(2) *Cooperation with law enforcement officers.*** No retail alcohol licensee, or the licensee's agent or employee, shall refuse, fail or neglect to cooperate with any law enforcement officer in the performance of such officer's duties to enforce the provisions of the Act.

**4.7(3) *Illegal activities.*** No retail alcohol licensee, or the licensee's agent or employee, shall knowingly allow in or upon the licensed premises any conduct as defined in Iowa Code sections 725.1, 725.2, 725.3, 728.2, 728.3 and 728.5.

**4.7(4) *Frequenting premises.*** No retail alcohol licensee, or the licensee's agent or employee, shall knowingly permit the licensed premises to be frequented by or become the meeting place, hangout or rendezvous for known pimps, panhandlers or prostitutes, or those who are known to engage in the use, sale or distribution of narcotics, or in any other illegal occupation or business.

**4.7(5) *Open containers of alcoholic beverages.*** No retail alcohol licensee, or the licensee's agent or employee, shall allow any filled, partially filled, or empty liquor glasses or liquor bottles to be taken off the licensed premises, excluding mixed drinks or cocktails pursuant to Iowa Code section 123.49(2) "d"(3). A class "E" retail alcohol licensee, or the licensee's agent or employee, shall not permit other licensees or consumers to remove partially filled, empty, open or unsealed containers of alcoholic liquor from the class "E" retail alcohol licensed premises.

**4.7(6) *Identifying markers.*** A licensee shall not keep on the licensed premises nor use for resale alcoholic liquor which does not bear identifying markers as prescribed by the administrator of the division. Identifying markers shall demonstrate that the alcoholic liquor was lawfully purchased from the division.

This rule is intended to implement Iowa Code section 123.49(2).

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.8(123) Violation by agent, servant or employee.** Any violation of the Act or the rules of the division by any employee, agent or servant of a licensee shall be deemed to be the act of the licensee and shall subject the license of said licensee to suspension or revocation.

This rule is intended to implement Iowa Code sections 123.4 and 123.49(2).

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.9(123) Gambling evidence.** The intentional possession or willful keeping of any gambling device as defined in Iowa Code section 725.9 upon the premises of any establishment licensed by the division shall be prima facie evidence of a violation of Iowa Code section 123.49(2) "a" and subject the license of said licensee to suspension or revocation.

This rule is intended to implement Iowa Code sections 123.4 and 123.49.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.10(123) Filling and selling of mixed drinks or cocktails in a container other than the original container.** Class "C" and class "C" native distilled spirits liquor control licensees and the licensee's employees may fill and sell mixed drinks or cocktails in a container other than the original container subject to the requirements and restrictions provided in 2020 Iowa Acts, House File 2540, sections 10, 11, 12, and 13, and this rule.

**4.10(1) *Definitions.***

*"Alcoholic liquor,"* for the purposes of this rule, means "alcoholic liquor" as defined in Iowa Code section 123.3(5).

*"Mixed drink or cocktail,"* for the purposes of this rule, means "mixed drink or cocktail" as defined in Iowa Code section 123.3(32).

*"Native distilled spirits,"* for the purposes of this rule, means "native distilled spirits" as defined in Iowa Code section 123.3(34).

*"Original container,"* for the purposes of this rule, means a vessel containing alcoholic liquor or native distilled spirits that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

“*Sealed container*,” for the purposes of this rule, means a vessel containing a mixed drink or cocktail that is designed to prevent consumption without removal of the tamper-evident lid, cap, or seal. “Sealed container” does not include a container with a lid with sipping holes or openings for straws, a cup made of plastic that is intended for one-time use, or a cup made of paper or polystyrene foam.

“*Tamper-evident*,” for the purposes of this rule, means a lid, cap, or seal that visibly demonstrates when a container has been opened.

**4.10(2) *Filling requirements.***

a. A sealed container shall be filled and sold only by the licensee or the licensee’s employees who are 18 years of age or older.

b. A sealed container shall be filled only upon receipt of an order by a consumer of legal age.

c. A sealed container shall be filled only with mixed drinks or cocktails composed in whole or in part with alcoholic liquor or native distilled spirits from an original container purchased from a class “E” liquor licensee.

d. The filling of a sealed container shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

**4.10(3) *Sealing requirements.*** A sealed container shall bear one of the following tamper-evident sealing methods:

a. A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the container is opened.

b. A screw top cap or lid that breaks apart when the container is opened.

c. A vacuum or heat-sealed pouch containing the mixed drink or cocktail.

**4.10(4) *Labeling requirements.*** A sealed container shall bear a label affixed to the container in a conspicuous place legibly indicating the following information:

a. The business name of the licensee that sold the mixed drink or cocktail.

b. The words “CONTAINS ALCOHOL.”

**4.10(5) *Sealed container not deemed an open container.*** A sealed container shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed container is unopened, the seal has not been tampered with, and the contents of the sealed container have not been partially removed.

**4.10(6) *Restrictions.***

a. A sealed container shall not be filled in advance of a sale.

b. A sealed container shall not meet the definition of “canned cocktail” as defined in Iowa Code section 123.3(11).

c. A licensee or a licensee’s employees shall not allow a consumer to fill a sealed container.

d. The filling and selling of a sealed container shall be limited to the hours in which alcoholic beverages may be legally sold.

e. A sealed container shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

**4.10(7) *Record keeping requirements.***

a. A licensee shall maintain records, in printed or electronic format, of all sales of sealed containers. The records shall state the following:

(1) The business name of the licensee that sold the mixed drink or cocktail.

(2) The date and time of the sale.

(3) A description of the product sold.

b. A licensee shall keep the required records for a three-year period from the date the record was created.

c. Records shall be open to inspection pursuant to Iowa Code section 123.30(1), and may be subject to administrative subpoena issued by the administrator.

**4.10(8) *Violations.*** Failure to comply with the requirements and restrictions of this rule shall subject the licensee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.30, 123.43A, and 123.49.

[ARC 5338C, IAB 12/16/20, effective 1/20/21]

**185—4.11(123) Filling and selling of wine and native wine in a container other than the original container.** Class “B,” class “C,” special class “C,” and class “E” retail alcohol licensees; special class “B” and special class “C” retail native wine licensees; and the licensee’s employees may fill, refill, and sell wine or native wine in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections 123.30, 123.31A, and 123.31B and in this rule.

**4.11(1) Definitions.**

“*Growler*,” for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold wine or native wine.

“*Native wine*,” for the purposes of this rule, means the same as defined in Iowa Code section 123.3(36).

“*Original container*,” for the purposes of this rule, means a vessel containing wine or native wine that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

“*Wine*,” for the purposes of this rule, means the same as defined in Iowa Code section 123.3(53).

**4.11(2) Filling and refilling requirements.**

- a. A growler shall have the capacity to hold no more than 72 ounces.
- b. A growler shall be filled or refilled only by the licensee or the licensee’s employees who are 18 years of age or older.
- c. A growler shall be filled or refilled only on demand by a consumer at the time of the sale.
- d. A growler shall be filled or refilled only with wine or native wine from the original container procured from a class “A” wine permittee.
- e. Special class “B” and special class “C” retail native wine licensees shall fill a growler with only native wine.
- f. A retailer may exchange a growler to be filled or refilled.
- g. The filling or refilling of a growler shall at all times be conducted in compliance with applicable state and federal food safety statutes and regulations.

**4.11(3) Sealing requirements.** A filled or refilled growler shall be securely sealed at the time of the sale by the licensee or the licensee’s employees in the following manner:

- a. A growler shall bear a cap, lid, stopper, or plug.
- b. A plastic heat shrink wrap band, strip, or sleeve shall extend around the cap or lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer shall not require a plastic heat shrink wrap band, strip, or sleeve.
- c. The heat shrink wrap seal shall be so secure that it is visibly apparent when the seal on a growler has been tampered with or a sealed growler has otherwise been reopened.
- d. A growler shall not be deemed an open container, subject to the requirements of Iowa Code sections 321.284 and 321.284A, provided the sealed growler is unopened and the seal has not been tampered with and the contents of the growler have not been partially removed.

**4.11(4) Restrictions.**

- a. A growler shall not be filled in advance of a sale.
- b. A growler filled pursuant to this rule shall not be delivered or direct-shipped to a consumer.
- c. A growler filled pursuant to this rule shall not be sold or otherwise distributed to a retailer.
- d. A licensee or a licensee’s employees shall not allow a consumer to fill or refill a growler.
- e. The filling, refilling, and selling of a growler shall be limited to the hours in which alcoholic beverages may be legally sold.
- f. A filled or refilled growler shall not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.
- g. An original container shall only be opened on the premises of a class “B” and class “E” retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

**4.11(5) Violations.** Failure to comply with the requirements and restrictions of this rule shall subject the licensee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.30, 123.31A, and 123.31B and section 123.31C as enacted by 2023 Iowa Acts, House File 677, section 5.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.12(123) Display of license, permit, or signs.** All licenses, permits or signs issued by the division shall be prominently displayed in full view on the licensed premises.

This rule is intended to implement Iowa Code sections 123.4 and 123.30.

**185—4.13(123) Outdoor service.** Any licensee having an outdoor, contiguous, discernible area on the same property on which their licensed establishment is located may serve the type of alcoholic beverage permitted by the license in the outdoor area. After a licensee satisfies the requirements of this rule, the licensee may serve and sell alcoholic beverages in both the licensee's indoor licensed establishment and in the licensee's outdoor area at the same time because an outdoor area is merely an extension of the licensee's licensed premises and is not a transfer of their license. A licensee, prior to serving in the outdoor area, must file with the division:

1. A new diagram showing the discernible outdoor area.
2. Local authority approval of the outdoor area.
3. Insurance company acknowledgment that the outdoor area is covered by the dramshop insurance policy.

This rule is intended to implement Iowa Code sections 123.3(29), 123.4 and 123.38.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.14(123) Revocation or suspension by local authority.** When the local authority revokes or suspends a retail alcohol license, the local authority shall notify the division in written form stating the reasons for the revocation or suspension and in the case of a suspension, the length of time of the suspension.

This rule is intended to implement Iowa Code sections 123.4, 123.32, and 123.39.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.15(123) Suspension of retail alcohol license, wine permit, or beer permit.** At the time of the suspension of any retail alcohol license, wine permit, or beer permit by the division, there shall be placed, in a conspicuous place in the front door or window of the licensed establishment, a placard furnished by the division showing that the license or permit of that establishment has been suspended by the division and such placard shall also show the number of days and reason for the suspension. No licensee or permittee shall remove, alter, obscure or destroy said placard without the express written approval of the division.

This rule is intended to implement Iowa Code sections 123.4 and 123.39.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.16(123) Cancellation of beer permits—refunds.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.17(123) Prohibited storage of alcoholic beverages.** No licensee shall permit alcoholic beverages, purchased under authority of a retail alcohol license, to be kept or stored upon any premises other than those licensed. However, under special circumstances, the administrator may authorize the storage of alcoholic beverages on premises other than those covered by the license. The administrator may allow class "D" retail alcohol licensees to store alcoholic liquor and wine in a bonded warehouse to be used for consumption in Iowa, under the authority of a class "D" retail alcohol license.

This rule is intended to implement Iowa Code sections 123.4 and 123.10(11).

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.18(123) Transfer of license or permit to another location.** A licensee or permittee cannot transfer to anyone else the right to use the retail alcohol license, wine permit, or beer permit of the licensee or permittee; the right of transfer is merely an opportunity for a licensee or permittee to use the licensee's or permittee's retail alcohol license, wine permit, or beer permit at a different location. A retail alcohol

license, wine permit, or a beer permit may only be transferred within the boundaries of the local authority which approved the license or permit.

**4.18(1)** *Permanent transfers.* A person may apply for a permanent transfer. The application must be approved by the local authority and the division prior to the transfer. The insurance company holding the dramshop policy listing the new address must endorse the application prior to the transfer. When the above requirements are met, the division shall issue an amended license or permit showing the new permanent address.

**4.18(2)** *Temporary transfers.* If the transfer of a retail alcohol license or permit is for the purpose of accommodating a special event or circumstance temporary in nature, the minimum time of transfer is hereby set at 24 hours and transfer time shall not exceed seven days. A person may apply for a temporary transfer. The application must be approved by the local authority and the division. The insurance company holding the dramshop policy must endorse the application prior to the transfer.

This rule is intended to implement Iowa Code sections 123.4 and 123.38.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.19(123) Execution and levy on alcoholic liquor, wine, and beer.** Judgments or orders requiring the payment of money or the delivery of the possession of property may be enforced against retail alcohol licensees, beer permittees, and wine permittees by execution pursuant to the provisions of Iowa Code chapter 626.

**4.19(1)** A secured party as defined in Iowa Code section 554.9102(1) “by” may take possession of and dispose of a retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer in which the secured party has a security interest in such collateral pursuant to the provisions of Iowa Code chapter 554. The secured party may operate under the retail alcohol license or permit of its debtor as defined in Iowa Code section 554.9102(1) “ad” for the purpose of disposing of the alcoholic liquor, wine, and beer. However, if the debtor is a class “E” retail alcohol licensee, the secured party may not purchase alcoholic liquor from the division to continue to operate its debtor’s business. A secured party operating under the retail alcohol license or permit of its debtor shall dispose of the alcoholic liquor, wine, and beer by sale only to persons authorized under Iowa Code chapter 123 to purchase alcoholic liquor, wine, and beer from the debtor. When a secured party takes possession of a retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer, the secured party shall notify the division in writing of such action. A secured party shall further inform the division of the manner in which it intends to dispose of the alcoholic liquor, wine, and beer and shall state the reasonable length of time in which it intends to operate under the retail alcohol license or permit of its debtor. The secured party shall notify the division in writing when the disposition of its collateral has been completed, and the secured party shall cease operating under the retail alcohol license or permit of its debtor.

**4.19(2)** A sheriff or other officer acting pursuant to Iowa Code chapter 626 may take possession of a retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer and may dispose of such inventory according to the provisions of Iowa Code chapter 626; however, the sheriff or other officer must sell the alcoholic liquor, wine and beer only to those persons authorized by Iowa Code chapter 123 to purchase alcoholic liquor, wine, and beer from the retail alcohol licensee or permittee whose inventory is subject to the execution and levy. The sheriff or other officer shall notify the division in writing at the time the sheriff or officer takes possession of a retail alcohol licensee’s or permittee’s alcoholic liquor, wine, and beer and shall further notify the division of the time and place of the sale of such property.

This rule is intended to implement Iowa Code sections 123.4, 123.10, and 123.38.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.20(123) Class “E” retail alcohol licensee methods of payment accepted.** The division may accept personal or business checks from a class “E” retail alcohol licensee made payable to the division for the amount of the purchase which has been certified by the bank on which the check is drawn. Bank drafts, signed by the licensee, will be accepted.

**4.20(1)** A retail alcohol licensed establishment which tenders the division one insufficient funds bank draft for the purchase of alcoholic liquor will lose its bank draft privilege for 90 days from the date the establishment pays the division even though the division does not suspend the liquor license because the

establishment paid the division within the 10-day demand period. A retail alcohol licensed establishment which tenders the division more than one insufficient funds bank draft for the purchase of alcoholic liquor will lose its bank draft privilege for 180 days from the date the establishment pays the division even though the division does not suspend the liquor license because the establishment paid the division within the 10-day demand period.

During the period that a licensee may not tender bank drafts to the division in payment for alcoholic liquor, the division may accept from the licensee a money order payable to the division for the amount of the purchase, a bank cashier's check signed by a bank official and made payable to the division for the amount of the purchase, or the licensee's personal or business check made payable to the division for the amount of the purchase which has been certified by the bank on which the check is drawn.

**4.20(2)** The division may collect from the licensee a \$10 fee for each dishonored bank draft tendered to the division by a licensee for the purchase of alcoholic beverages.

**4.20(3)** The division may require, at the discretion of the administrator, that a licensee submit a letter of credit in a reasonable amount to be determined by the administrator for future purchases of alcoholic liquor from the division, when a licensee tenders to the division a bank draft which is subsequently dishonored by the bank if the licensee fails to satisfy the obligation within ten days after service of notice of nonpayment and penalty.

This rule is intended to implement Iowa Code sections 123.4 and 123.24.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.21(123) Where retailers must purchase wine.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.22(123) Liquor on licensed premises.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.23(123) Liquor on unlicensed places.** Liquor may be kept and consumed but not sold on unlicensed places under the following conditions:

**4.23(1)** Liquor may be kept and consumed in a private home at any time.

**4.23(2)** Liquor may be kept and consumed, by the guests or residents, in the residential or sleeping quarters of a hotel or motel at any time. This is considered as an extension of the private home.

**4.23(3)** Liquor may be consumed at a private social gathering in a private place at any time.

**4.23(4)** A private place is a location which meets all of the following criteria:

*a.* One to which the general public does not have access at the time the liquor is kept, dispensed or consumed; one at which the attendees are limited to the bona fide social hosts and invited guests.

*b.* One which is not of a commercial nature at the time the liquor is consumed or dispensed at the location.

*c.* One where goods or services are neither sold nor purchased at the time the liquor is consumed or dispensed at the location.

*d.* One where the use of the location was obtained without charges or rent or any other thing of value was exchanged for its use.

*e.* One which is not a licensed premises.

*f.* One where no admission fees or other kinds of entrance fees, fare, ticket, donation or charges are made or are required of the invited guests to enter the location.

This rule is intended to implement Iowa Code section 123.95.

**185—4.24(123) Alcoholic liquor and wine on beer permit premises.** Rescinded ARC 3928C, IAB 8/1/18, effective 9/5/18.

**185—4.25(123) Age requirements.** Persons 21 years of age or older may hold a retail alcohol license, wine permit, or beer permit. Persons 16 years of age and older may sell alcoholic beverages in off-premises establishments.

This rule is intended to implement Iowa Code sections 123.30 and 123.49.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.26(123) Timely filed status.**

**4.26(1)** In addition to the requirements which may be imposed by a local authority upon the holder of a retail alcohol license to obtain timely filed status of a renewal application, the division may grant timely filed status if the applicant complies with the following conditions:

*a.* The applicant submits a completed application with the local authority or the division as required by applicable law.

*b.* A current dramshop liability certificate has been endorsed by the insurance company if proof of dramshop liability is required as a condition precedent to the issuance of the license.

*c.* The applicant pays the appropriate license fee in full to the local authority or the division as required by applicable law.

*d.* A bond has been certified by the carrier if a bond is required as a condition precedent to the issuance of the license under applicable law.

**4.26(2)** Timely filed status allows the holder of the license to continue to operate under a license after its expiration and until the local authority and the division have finally determined whether the license should be issued. If the application for the license is denied, timely filed status continues until the last day for seeking judicial review of the division's action.

**4.26(3)** An applicant for a new retail alcohol license may not sell alcoholic liquor, wine or beer in the proposed establishment until a license has been granted by the division.

This rule is intended to implement Iowa Code sections 123.32, 123.35 and 17A.18.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.27(123) Effect of suspension.** Subject to the right to convey a suspended establishment under Iowa Code section 123.39, no beer, wine, or liquor can be sold or consumed in an establishment during a suspension period. An establishment may be open during a suspension period to conduct lawful business other than the sale of liquor, wine, and beer as long as no liquor, wine, or beer is sold or consumed during the suspension period.

This rule is intended to implement Iowa Code section 123.39.

**185—4.28(123) Use of establishment during hours alcoholic beverages cannot be consumed.** No one, including a retail alcohol licensee and the licensee's employees, can consume alcoholic beverages in their licensed establishment during hours which alcoholic beverages cannot be sold. An establishment covered by a retail alcohol license can be used as a restaurant or any other lawful purpose during hours which alcoholic beverages cannot be sold as long as alcoholic beverages are not consumed during these hours.

This rule is intended to implement Iowa Code section 123.49.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.29** Reserved.

**185—4.30(123) Persons producing fuel alcohol.** Persons producing fuel alcohol for their own use or to be sold commercially do not have to obtain a license or permit from the division.

This rule is intended to implement Iowa Code sections 123.4 and 123.41.

**185—4.31(123) Storage of beer.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.32(123) Delivery of alcoholic liquor.** Individuals who do not work for the division may operate a delivery service in which they will charge licensees a fee for picking up their alcoholic liquor orders at the division's liquor stores and delivering it to their establishments.

This rule is intended to implement Iowa Code sections 123.4 and 123.21(10).

**185—4.33(123) Delivery of beer and wine.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.34(123) Determination of population.** Decennial Censuses and Special Censuses done by the U.S. Census Bureau are recognized as being the official population of a town for the purpose of deciding the

price of licenses in that town, but estimates done by the U.S. Census Bureau cannot be viewed as being the official population when deciding the price of licenses.

This rule is intended to implement Iowa Code section 123.10(11).

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.35(123) Minors in licensed establishments.** Because Iowa law does not prohibit minors from being in licensed establishments, a minor can be in a licensed establishment if local authority does not have a local ordinance prohibiting minors from being in licensed establishments in its jurisdiction.

This rule is intended to implement Iowa Code section 123.21(5).

**185—4.36(123) Sale of alcoholic beverages stock when licensee sells business.** When a retail alcohol licensee goes out of business, the licensee may sell the licensee's stock of alcoholic beverages to the person who is going to operate a licensed establishment in the same location.

This rule is intended to implement Iowa Code section 123.10.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.37(123) Business as usual on election days.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.38(123) Sunday sale of wine.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—4.39(123) Intoxication notice.** Reserved.

**185—4.40(123) Warehousing of beer and wine.** A person holding a class "A" wine permit or a class "A" beer permit shall warehouse their wine or beer inventory within the state of Iowa. A warehouse of a person holding a class "A" wine permit or a class "A" beer permit shall be considered a licensed premises.

This rule is intended to implement Iowa Code sections 123.127 and 123.175.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—4.41(123) Vending machines to dispense alcoholic beverages prohibited.** A retail alcohol licensee shall not install or permit the installation of vending machines on the licensed premises for the purpose of selling, dispensing or serving alcoholic beverages. A vending machine is defined as a slug-, coin-, currency- or credit card-operated mechanical device used for dispensing merchandise, including single cans of beer or other alcoholic beverages, and includes a mechanical device operated by remote control and used for dispensing single cans of beer or other alcoholic beverages. A vending machine is not a unit installed in individual hotel or motel rooms used for the storage of alcoholic beverages and intended for the personal use of hotel or motel guests within the privacy of the guests' rooms.

This rule is intended to implement Iowa Code section 123.49.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

[Filed December 14, 1972]

[Filed 5/19/78, Notice 4/5/78—published 6/14/78, effective 7/20/78]

[Filed 2/16/79, Notice 12/27/78—published 3/7/79, effective 4/16/79]

[Filed without Notice 7/6/79—published 7/25/79, effective 8/29/79]

[Filed 8/15/80, Notice 5/28/80—published 9/3/80, effective 10/8/80]

[Filed 1/4/82, Notice 9/2/81—published 1/20/82, effective 2/25/82]

[Filed 5/18/82, Notice 3/3/82—published 6/9/82, effective 7/14/82]

[Filed 6/17/83, Notice 3/30/83—published 7/6/83, effective 8/10/83]<sup>1</sup>

[Filed 9/17/84, Notice 6/20/84—published 10/10/84, effective 11/14/84]

[Filed 5/3/85, Notice 2/13/85—published 5/22/85, effective 6/26/85]

[Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]

[Filed emergency 7/1/85—published 7/31/85, effective 7/1/85]

[Filed emergency 10/10/85—published 11/6/85, effective 10/10/85]

[Filed emergency 6/11/86—published 7/2/86, effective 7/1/86]

[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]<sup>◇</sup>  
 [Filed emergency 8/22/86—published 9/10/86, effective 9/30/86]<sup>◇</sup>  
 [Editorially transferred from [150] to [185], IAC Supp. 10/8/86; see IAB 7/30/86]  
 [Filed emergency 11/12/86—published 12/3/86, effective 11/12/86]  
 [Filed emergency 3/6/87—published 3/25/87, effective 3/6/87]  
 [Filed 4/17/87, Notice 12/31/86—published 5/6/87, effective 6/10/87]  
 [Filed 7/24/87, Notice 3/25/87—published 8/12/87, effective 9/16/87]  
 [Filed 4/26/91, Notice 3/20/91—published 5/15/91, effective 6/19/91]  
 [Filed 1/27/92, Notice 8/7/91—published 2/19/92, effective 3/25/92]  
 [Filed emergency 7/29/93—published 8/18/93, effective 7/29/93]  
 [Filed 10/20/93, Notice 8/18/93—published 11/10/93, effective 12/15/93]  
 [Filed 9/26/94, Notice 6/22/94—published 10/26/94, effective 11/30/94]  
 [Filed 10/12/01, Notice 8/8/01—published 10/31/01, effective 12/5/01]  
 [Filed Emergency ARC 0204C, IAB 7/11/12, effective 7/1/12]  
 [Filed ARC 0406C (Notice ARC 0205C, IAB 7/11/12), IAB 10/17/12, effective 11/21/12]  
 [Filed ARC 2382C (Notice ARC 2255C, IAB 11/25/15), IAB 2/3/16, effective 3/9/16]  
 [Filed ARC 2777C (Notice ARC 2679C, IAB 8/17/16), IAB 10/12/16, effective 11/16/16]  
 [Filed ARC 3928C (Notice ARC 3817C, IAB 6/6/18), IAB 8/1/18, effective 9/5/18]  
 [Filed ARC 5191C (Notice ARC 5111C, IAB 7/29/20), IAB 9/23/20, effective 10/28/20]  
 [Filed Emergency ARC 5221C, IAB 10/7/20, effective 10/1/20]  
 [Filed ARC 5338C (Notice ARC 5220C, IAB 10/7/20), IAB 12/16/20, effective 1/20/21]  
 [Filed ARC 5392C (Notice ARC 5242C, IAB 11/4/20), IAB 1/13/21, effective 2/17/21]  
 [Filed ARC 7073C (Notice ARC 7049C, IAB 7/26/23), IAB 9/20/23, effective 10/25/23]  
 [Editorial change: IAC Supplement 11/15/23]

<sup>◇</sup> Two or more ARCs

<sup>1</sup> Effective date of 4.32 delayed seventy days by the Administrative Rules Review Committee on 8/2/83.

CHAPTER 5  
LICENSE AND PERMIT DIVISION  
[Ch 5, IAC 7/1/75 renumbered Ch 6, IAC 3/7/79]  
[Prior to 10/8/86, Beer and Liquor Control Department [150]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**185—5.1(123) Manufacture and sale of native wine.** Manufacturers of native wine as defined in Iowa Code section 123.3(36) may sell, keep or offer for sale and deliver their native wine subject to the following regulations and restrictions.

**5.1(1)** *Class “A” native wine permit.* A manufacturer of native wine must display the original or a copy of its class “A” native wine permit in each of its native wineries and in each of its retail establishments. A manufacturer of native wine must register its retail establishment on forms or systems provided by the division.

**5.1(2)** *Monthly combined wine production and wine gallonage tax report.* A monthly report is required showing the amount of wine on hand at the beginning of the month, the amount produced, the amount sold, the amount of wine gallonage tax due, and any other information requested. Report forms shall be furnished by the division. A manufacturer of native wine shall submit a report along with any wine gallonage tax payment in the division’s licensing system by the tenth of each month for the preceding month’s business. Reports and wine gallonage tax payments submitted by the tenth of each month for the preceding month shall be considered timely. This report must be submitted for each month even if no wine sales were made during the month.

This rule is intended to implement Iowa Code sections 123.4, 123.49, 123.176, and 123.183.  
[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—5.2(123) Production of a native distillery.**

**5.2(1)** *Native distillery.* A native distillery is a business as defined in Iowa Code section 123.3(35).

**5.2(2)** *Definitions.*

“*Native distilled spirits*” means an alcoholic beverage as defined in Iowa Code section 123.3(34).

“*Operating still*” means a still that is registered with the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 19.75(b) and is actively used to manufacture spirits.

“*Proof gallon*” means a United States gallon of proof spirits, or the alcoholic equivalent thereof, as defined by the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 30.11.

This rule is intended to implement Iowa Code sections 123.3(29), 123.30(3)“c”(3), 123.43 and 123.43A.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—5.3(123) Licensed manufacturers and wholesalers.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—5.4(123) Investigation before issuing license or permit.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—5.5** Reserved.

**185—5.6(123) Living quarters permit.** Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.

**185—5.7(123) Change of ownership of a licensed premises, new license or permit required.**

**5.7(1)** A new license or permit and a new bond and a new dramshop policy must be obtained whenever one of the following occurs:

- a. When a business is sold or leased to another person.
- b. When a licensee or permittee changes to another form of business, such as: sole proprietorship to a corporation; a corporation to a sole proprietorship; a sole proprietorship to a partnership; a partnership to a sole proprietorship; a partnership to a corporation; or a corporation to a partnership.

- c. When a partner leaves a partnership or when a new partner is added to a partnership.
- d. When a corporation name is changed due to a merger or is voluntarily changed by its owners.
- e. Each time an entity obtains a seasonal license or permit.
- f. When a receiver takes over the operation of an establishment.

**5.7(2)** A new license or permit is not required:

- a. When only the trade name of the business is changed.
- b. When the stock of a corporation holding a license or permit is sold. A letter to the division listing the new owner or owners and the amount of stock held by each is required.
- c. When a name of a licensee or permittee is changed by marriage, divorce, or other legal proceeding. A letter requesting the name change is required.
- d. When a license or permit is transferred to another location within the jurisdiction of the local authority as allowed by rule 185—4.18(123).

This rule is intended to implement Iowa Code sections 123.4, 123.10, 123.31 and 123.49.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—5.8(123) Dramshop liability insurance requirements.** For the purpose of providing proof of financial responsibility, as required under the provisions of Iowa Code section 123.92, a liability insurance policy shall meet the following requirements.

**5.8(1)** *Current certificate required.* The dramshop liability certificate of insurance shall be issued by a company holding a current certificate of authority from the Iowa insurance commissioner authorizing the company to issue dramshop liability insurance in Iowa or issued under the authority and requirements of Iowa Code sections 515.120 and 515.122. The dramshop policy shall take effect the day the license takes effect and shall continue until the expiration date of the license. A new dramshop liability certificate of insurance shall be provided each time the division issues a new license. The dramshop liability certificate of insurance shall contain the following: the name of the insurance provider; the policy number; the name and address of the insured; the license number of the insured, if applicable; and the policy effective dates. Upon request, an insurance company or an insured shall provide to the division a duplicate original of the policy and all pertinent endorsements.

**5.8(2)** *Minimum coverage required.* The dramshop liability insurance policy shall provide the following minimum liability coverage, exclusive in interests and cost of action, per occurrence:

- a. Fifty thousand dollars for bodily injury to or death of one person in each claim or occurrence.
- b. One hundred thousand dollars for bodily injury to or death of two or more persons in each occurrence.
- c. Twenty-five thousand dollars for loss of means of support of any one person in each occurrence.
- d. Fifty thousand dollars for loss of means of support of two or more persons in each occurrence.

**5.8(3)** *Permitted policies.* All dramshop policies issued under this rule shall be occurrence-based policies, not claims-made-based policies.

a. *Claims-made-based policies.* Claims-made-based policies provide liability coverage only if a written claim is made during the policy period, or any applicable extended reporting period.

b. *Occurrence-based policies.* Occurrence-based policies provide liability coverage only for injuries or damages that occur during the policy period regardless of the number of written claims made.

**5.8(4)** *Cancellation.* An insurance company or an insured may cancel a liability policy by giving a minimum of 30 days' prior written notice to the division of the party's intent to cancel the liability policy. The 30-day period shall begin on the date that the division receives the notice of cancellation. The party seeking to cancel a liability policy shall mail written notice of such cancellation to the division in Ankeny, Iowa, by certified mail, or other method deemed acceptable by the division, and shall mail a copy of the notice of cancellation to the licensee at that party's post office address. The notice of cancellation shall contain the following: the name of the party to whom the copy of the notice of cancellation was mailed, the address to which the copy of the notice of cancellation was sent, the date on which the notice of cancellation was mailed, the date the liability policy is being canceled, and the retail alcohol license number of the licensee to be affected by such cancellation.

**5.8(5)** *Civil tort liability.* Subject to the ordinary or customary exclusions usually found in a policy of dramshop liability insurance, the policy shall contain coverage to insure against civil tort liability of the

insured, created under Iowa Code sections 123.92, 123.93 and 123.94, as those sections now exist or may hereafter be amended.

**5.8(6) *Proof of financial responsibility.*** A licensee shall be deemed to have furnished proof of financial responsibility as contemplated under the provisions of Iowa Code sections 123.92, 123.93, and 123.94 when the licensee has filed with the division at its offices in Ankeny, Iowa, a properly executed form as described by subrule 5.8(1), or by other method deemed acceptable by the division.

**5.8(7) *Signature required.*** Copies of the form described above shall not be deemed properly executed unless the authorized company representative executing the same shall first have filed with the division a sample of the representative's signature. Electronic and facsimile signatures will be acceptable.

**5.8(8) *Single insurance policies for multiple establishments.*** Any licensee that holds multiple licenses throughout the state may purchase a single dramshop insurance policy for all locations provided that:

*a.* The single dramshop insurance policy provides at least the minimum level of coverage required under this rule for each and every location covered by the policy.

*b.* All other provisions of this rule are met by the single dramshop insurance policy.

**5.8(9) *Assault and battery policy requirement.*** Any dramshop insurance policy issued under this rule shall not contain an exclusionary clause for assault and battery or intentional force with regard to:

*a.* Employees, agents or any person acting as an agent of the establishment.

*b.* All patrons or visitors to the establishment.

This rule is intended to implement Iowa Code sections 123.92, 123.93 and 123.94.

[ARC 7073C, IAB 9/20/23, effective 10/25/23; Editorial change: IAC Supplement 11/15/23]

**185—5.9(123) Surety bond requirements.** Each surety bond shall meet the following requirements.

**5.9(1) *Certificate of authority.*** The surety bond shall be issued by a company holding a current certificate of authority from the commissioner of insurance authorizing the company to issue bonds in Iowa.

**5.9(2) *Forfeiture of bond.*** The surety bond shall contain a provision for the principal and surety to consent to the forfeiture of the principal sum of the bond in the event of revocation of the license or permit by the violation of any Iowa Code provision which requires forfeiture of the bond.

**5.9(3) *Cancellation.*** A surety company or a principal may cancel a bond by giving a minimum of 30 days' written notice to the division of the party's intent to cancel the bond. The 30-day period shall commence on the date that the division receives the notice of cancellation. The party seeking to cancel a bond shall submit written notice of such cancellation to the division in Ankeny, Iowa, and further shall submit a copy of the notice of cancellation to the other party. The notice of cancellation shall contain the following: the name of the party to whom the copy of the notice of cancellation was submitted, the date on which the notice of cancellation was submitted, the date the bond is being canceled, and the license or permit number of the licensee or permittee to be affected by such cancellation.

**5.9(4) *Proof of bond.*** A licensee or permittee shall be deemed to have furnished a surety bond when the licensee or permittee has:

*a.* Filed with the division a form prescribed by the division containing the following: the name of the bond provider; the city and state where the bond provider is located; the bond number, the names of the principal, and the city and state where the principal is located; the amount of the bond; the type of license or permit guaranteed by the bond; the effective date of the bond; signatures of the principal and the bond provider; and any other information the administrator of the division may require, or

*b.* Met this requirement by any other method deemed acceptable by the administrator of the division or a designee.

**5.9(5) to 5.9(7) Reserved.**

This rule is intended to implement Iowa Code sections 123.30, 123.50, 123.127, and 123.175.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—5.10 to 185—5.19 Reserved.**

[Filed 12/14/72]

[Filed emergency 5/11/76—published 5/31/76, effective 5/11/76]

[Filed 5/19/78, Notice 4/5/78—published 6/14/78, effective 7/20/78]

[Filed 2/16/79, Notice 12/27/78—published 3/7/79, effective 4/16/79]  
 [Filed without Notice 7/6/79—published 7/25/79, effective 8/29/79]  
 [Filed 8/15/80, Notice 5/28/80—published 9/3/80, effective 10/8/80]  
 [Filed emergency 5/19/82—published 6/9/82, effective 5/19/82]  
 [Filed 11/1/84, Notice 8/1/84—published 11/21/84, effective 12/26/84]  
 [Filed 5/3/85, Notice 2/13/85—published 5/22/85, effective 6/26/85]<sup>1</sup>  
 [Filed without Notice 5/3/85—published 5/22/85, effective 7/1/85]  
 [Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]<sup>◇</sup>  
 [Filed emergency 7/1/85—published 7/31/85, effective 7/1/85]  
 [Filed emergency 10/10/85—published 11/6/85, effective 10/10/85]  
 [Filed emergency 6/11/86—published 7/2/86, effective 7/1/86]  
 [Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]<sup>◇2</sup>  
 [Filed 7/1/86, Notice 5/21/86—published 7/30/86, effective 9/3/86]<sup>2</sup>  
 [Filed emergency 8/22/86—published 9/10/86, effective 9/30/86]<sup>2</sup>  
 [Editorially transferred from [150] to [185], IAC Supp. 10/8/86; see IAC 7/30/86]  
 [Filed 2/16/88, Notice 10/7/87—published 3/9/88, effective 4/13/88]  
 [Filed 4/26/91, Notice 3/20/91—published 5/15/91, effective 6/19/91]  
 [Filed emergency 7/29/93—published 8/18/93, effective 7/29/93]  
 [Filed 10/20/93, Notice 8/18/93—published 11/10/93, effective 12/15/93]  
 [Filed 4/28/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]  
 [Filed 10/12/01, Notice 8/8/01—published 10/31/01, effective 12/5/01]  
 [Filed 3/14/03, Notice 8/8/01—published 4/2/03, effective 5/8/03]  
 [Filed ARC 0274C (Notice ARC 0157C, IAB 6/13/12), IAB 8/8/12, effective 9/12/12]  
 [Filed ARC 3928C (Notice ARC 3817C, IAB 6/6/18), IAB 8/1/18, effective 9/5/18]  
 [Filed ARC 7073C (Notice ARC 7049C, IAB 7/26/23), IAB 9/20/23, effective 10/25/23]  
 [Editorial change: IAC Supplement 11/15/23]

◇ Two or more ARCs

<sup>1</sup> Effective date of 5.1(2), 5.1(7) and 5.7(1) delayed 70 days by the Administrative Rules Review Committee on 6/11/85.

<sup>2</sup> See Alcoholic Beverages Division in IAB.

CHAPTER 6  
ADVERTISING

Rescinded IAB 5/15/91, effective 6/19/91

CHAPTER 7  
REPRESENTATIVES OF DISTILLERS, RECTIFIERS,  
MANUFACTURERS, BREWERS AND VINTNERS

[Ch 7, IAC 7/1/75 renumbered Ch 8, IAC 3/7/79]  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]

Rescinded **ARC 5910C**, IAB 9/22/21, effective 10/27/21



CHAPTER 8  
TRANSPORTATION AND WAREHOUSE

[Ch 8, IAC 7/1/75 rescinded 3/7/79; see 5.8, 5.9]  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**185—8.1(123) Definitions.**

“*Administrator*” means the administrator of the alcoholic beverages division of the department of commerce.

“*Category*” means the classification of an alcoholic liquor product, such as rum, vodka, or whiskey.

“*Commission*” means the alcoholic beverages commission established in Iowa Code chapter 123.

“*Delist*” means the removal of products from the division’s product inventory.

“*Division*” means the alcoholic beverages division of the department of commerce.

“*Product*” means “alcoholic liquor” or “native distilled spirits” as defined in Iowa Code chapter 123.

“*Supplier*” means a manufacturer, distiller, or importer of alcoholic liquors or native distilled spirits shipping, selling, or having such alcoholic beverages brought into this state for resale by the division.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.2(123) Listing classifications.** Each product available for sale by the division shall be assigned to one of the following listing classifications. Suppliers may indicate their preferred listing classification; however, final determination shall be made by the administrator or the administrator’s designee.

**8.2(1) *Permanent.*** Products with a permanent listing shall be available for sale by the division on an ongoing basis, unless otherwise delisted or temporarily out of stock.

**8.2(2) *Temporary.*** Temporary listings shall have a duration determined by the administrator or the administrator’s designee, and the duration may be extended at the discretion of the administrator or the administrator’s designee.

**8.2(3) *Size extension.*** A supplier shall submit a listing request for each additional size of a product that is currently listed for sale. All listed sizes of the product should meet sales criteria established by the administrator, or the administrator’s designee, in order for a size extension listing request to be approved as a permanent listing.

**8.2(4) *Special order.*** Products that are not currently listed for sale by the division may be purchased through a special order placed with the supplier of the product.

*a.* A request for a special order will be placed with the division by a class “E” retail alcohol licensee. Special order requests shall be submitted electronically or in a manner prescribed by the administrator or the administrator’s designee. The administrator, or the administrator’s designee, may reject a special order request if it is determined that the requested product is in violation of the requirements set out in subparagraphs 8.3(3) “a”(1) and 8.3(3) “a”(2).

*b.* If the division accepts a special order request, the request shall be forwarded on to the supplier of the product. The supplier may approve or deny the special order request.

*c.* All special order products shall be sold and distributed by the division to class “E” retail alcohol licensees by the case only.

*d.* Special order products are not eligible for return to the division by a class “E” retail alcohol licensee without approval from the administrator or the administrator’s designee.

**8.2(5) *Special order on hand.*** Products that are frequently sold as special orders but do not qualify for permanent listing may be listed as special order on hand.

*a.* To be eligible for classification as a special order on-hand listing, a product must have been previously sold as a special order and meet sales criteria established by the administrator or the administrator’s designee.

*b.* Products that have been delisted shall not be eligible to be moved from permanent listing to special order on-hand listing.

**8.2(6) *Highly allocated.*** Highly allocated products are products of a limited supply as determined by the supplier.

a. Highly allocated products may be sold via a lottery system as deemed necessary by the administrator or the administrator's designee.

b. Highly allocated products shall not be available for sale as special orders.

**8.2(7) Quantity limitations.** Quantities of listed products available for purchase by class "E" retail alcohol licensees may be limited at the administrator's, or the administrator's designee's, discretion.

[ARC 5910C, IAB 9/22/21, effective 10/27/21; ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—8.3(123) Listing requests.** The supplier of a product to be sold by the division shall submit a listing request for consideration by the administrator or the administrator's designee.

**8.3(1) Submitting a listing request.** Listing requests shall be submitted electronically or in a manner prescribed by the administrator or the administrator's designee.

**8.3(2) Listing request requirements.**

a. A listing request shall contain the following information:

(1) A control state code number for the product issued by the National Alcohol Beverage Control Association.

(2) The supplier's f.o.b. cost per case. The case price shall be evenly divisible by the number of bottles in the case. The supplier shall determine the number of bottles that constitute a case for the product.

(3) The product's case quantity size and standard of fill.

(4) An image of the product.

(5) A brief description of the product.

(6) The weights and dimensions of the product container, case, and pallet.

(7) The product's 14-digit shipping container code.

(8) The product's universal product code.

(9) Any other information required by the administrator or the administrator's designee.

b. The administrator, or the administrator's designee, may require a supplier to conduct a listing presentation for new products that have not been previously listed.

**8.3(3) Decisions.**

a. The criteria used to determine whether a listing request shall be approved or denied shall include, but not be limited to, the following:

(1) Whether the product violates the code of responsible practices established by the Distilled Spirits Council of the United States.

(2) The reasonable potential of the product to unduly jeopardize the welfare, health, peace, morals, or safety of the people of the state.

b. The administrator, or the administrator's designee, shall approve or deny a listing request not more than 20 business days from the date the listing request was submitted. Suppliers shall be notified of the decision in writing delivered electronically or in a manner prescribed by the administrator or the administrator's designee.

**8.3(4) Appeals.**

a. *Appeal to administrator.*

(1) A supplier may appeal the denial of a listing request by the administrator's designee to the administrator by filing a notice of appeal within 30 days of the date of denial.

(2) A notice of appeal shall be in writing and shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the administrator.

(4) The administrator shall affirm, reverse, or modify the denial of the listing request and shall notify the supplier of the decision in writing.

b. *Appeal to commission.*

(1) If the administrator denies a listing request or affirms the denial of a listing request by the administrator's designee, the supplier may appeal the administrator's decision by filing a notice of appeal with the commission within 30 days of the date of the administrator's decision.

(2) A notice of appeal shall be in writing and shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the commission.

(4) The commission shall have discretion as to whether to hear the appeal. If the commission chooses to hear the appeal, it shall be heard at the next scheduled commission meeting or a special meeting called for by the commission chairperson, the administrator, or at least three members of the commission.

(5) If the commission reverses the decision of the administrator, the listing request shall be approved.

(6) If the commission affirms the administrator's decision or chooses not to hear the appeal, the listing request shall be denied.

(7) The commission's decision shall constitute final agency action for the purposes of Iowa Code chapter 17A.

**8.3(5)** *Resubmission of a listing request.* If a listing request for a product is denied, a new listing request for the product may be submitted by the supplier not less than three months after the denial date of the original listing request.

**8.3(6)** *Moratorium.* The administrator, or the administrator's designee, may implement a moratorium on new permanent listing requests. The duration of the moratorium period shall be determined by the administrator or the administrator's designee. The administrator, or the administrator's designee, may allow a supplier to trade out a permanently listed product for a new product during a moratorium period.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.4(123) Shipment of product to the division.** Shipments of product intended for sale by the division shall be made in accordance with this rule.

**8.4(1)** *Product shipments into the state.* Product shipments shall only be made into the state of Iowa by suppliers.

**8.4(2)** *Product shipment locations.* Product shipments shall only be made to a state warehouse or to receiving points designated by the administrator.

**8.4(3)** *Pallet requirements.*

a. Products shipped to the division shall be on securely stretch-wrapped pallets that are in good repair. The administrator, or the administrator's designee, may establish additional requirements as deemed necessary.

b. Products shipped to the division on slip sheets shall not be accepted by the division and shall be returned to the supplier.

**8.4(4)** *Case labeling requirements.*

a. Each case of product shipped to the division shall include a case code label placed on an end panel of the case.

b. The case code label shall contain the following information:

(1) The control state code number issued by the National Alcohol Beverage Control Association for the product.

(2) The product's universal product code and corresponding barcode.

(3) The 14-digit shipping container code and corresponding barcode. The shipping container code and barcode shall meet the minimum requirements established by the American National Standards Institute and the International Organization for Standardization.

(4) Any other information required by the administrator or the administrator's designee.

**8.4(5)** *Bottle deposit requirements.*

a. All products intended for resale by the division shall meet the requirements of Iowa Code section 455C.5 and rule 567—107.3(455C). Products that do not meet the requirements shall not be made available for sale until the requirements are met.

b. Suppliers may purchase bottle deposit refund stickers from the division. The cost of the stickers to suppliers shall not exceed the division's cost of producing and distributing the stickers.

**8.4(6)** *Special handling charges.* Product shipments that do not meet the requirements of subrule 8.4(3), 8.4(4), or 8.4(5) shall result in the assessment of special handling charges against the supplier in an amount not to exceed the division's actual cost to bring the shipments into compliance. The division's actual cost shall be determined using the negotiated hourly rate of the third party the division has contracted with for warehousing services.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.5(123) Inventory levels.** The administrator, or the administrator’s designee, shall establish maximum and minimum inventory levels for each listed product. Maximum and minimum inventory levels may be adjusted at the discretion of the administrator or the administrator’s designee.

**8.5(1) Purchase orders.** Suppliers shall submit purchase orders to the division electronically, or in a manner prescribed by the administrator or the administrator’s designee, as needed to maintain appropriate inventory levels.

**8.5(2) Maximum inventory level exception.** A supplier may request from the division an exception to the established maximum inventory level for a product. Requests for a maximum inventory level exception shall be submitted to the division electronically or in a manner prescribed by the administrator or the administrator’s designee. The administrator, or the administrator’s designee, shall approve or deny the request, and the supplier shall be notified of the decision in writing delivered either electronically or in a manner prescribed by the administrator or the administrator’s designee.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.6(123) Pricing.**

**8.6(1) Permanent price changes.** Suppliers may make permanent price changes to the case cost of products in any listing classification.

a. The frequency at which permanent price changes may be made shall be determined by the administrator or the administrator’s designee.

b. Permanent price changes shall be submitted electronically, or in a manner prescribed by the administrator or the administrator’s designee, at least 20 business days prior to the effective date.

**8.6(2) Temporary price reductions.** Suppliers may make temporary price reductions to the case cost of products with a permanent or temporary listing classification.

a. Products with a listing classification of special order, special order on hand, or highly allocated shall not be eligible for temporary price reductions.

b. Temporary price reductions shall become effective as determined by the administrator or the administrator’s designee.

c. Temporary price reductions shall be submitted electronically, or in a manner prescribed by the administrator or the administrator’s designee, at least 20 business days prior to the effective date.

**8.6(3) Price lists.** The division shall publish a price list electronically on a monthly basis showing the price to be paid by class “E” retail alcohol licensees for each brand, variety, and category of product available for sale by the division. The price list shall be published on the division’s website at [shop.iowaabd.com](http://shop.iowaabd.com) and may be distributed to class “E” retail alcohol licensees as deemed necessary by the administrator or the administrator’s designee.

[ARC 5910C, IAB 9/22/21, effective 10/27/21; ARC 7073C, IAB 9/20/23, effective 10/25/23]

**185—8.7(123) Delisting.** Listed products that do not meet sales guidelines established by the administrator, or the administrator’s designee, may be delisted. The frequency of delisting shall be determined by the administrator or the administrator’s designee.

**8.7(1) Notification.** Suppliers of delisted products shall be notified of the decision in writing delivered electronically or in a manner prescribed by the administrator or the administrator’s designee.

**8.7(2) Appeals.**

a. *Appeal to administrator.*

(1) A supplier may appeal the delisting of a product by the administrator’s designee to the administrator by filing a notice of appeal within 30 days of the date of delisting notification.

(2) A notice of appeal shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the administrator.

(4) The administrator shall affirm, reverse, or modify the delisting and shall notify the supplier of the decision in writing.

b. *Appeal to commission.*

(1) If the administrator delists a product, or if the administrator affirms a delisting by the administrator's designee, the supplier may appeal the administrator's decision by filing a notice of appeal with the commission within 30 days of the date of the administrator's decision.

(2) A notice of appeal shall specify the specific findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

(3) A notice of appeal shall be considered filed at the time it is received by the commission.

(4) The commission shall have discretion as to whether to hear the appeal. If the commission chooses to hear the appeal, it shall be heard at the next scheduled commission meeting or a special meeting called for by the commission chairperson, the administrator, or at least three members of the commission.

(5) If the commission reverses the decision of the administrator, the product shall remain listed under terms established by the commission.

(6) If the commission affirms the administrator's decision, or chooses not to hear the appeal, the product shall be delisted.

(7) The commission's decision shall constitute final agency action for the purposes of Iowa Code chapter 17A.

**8.7(3) *Removal of delisted products.*** Delisted products shall be removed from the division's warehouse by the supplier or by the supplier's agent or employee within a time frame established by the administrator or the administrator's designee. A supplier may authorize the division to destroy a delisted product in lieu of removal of the product by the supplier from the division's warehouse. New listing requests submitted by a supplier shall not be considered by the division until all of the supplier's delisted product has been removed from the division's warehouse.

**8.7(4) *Resubmission of a delisted product for listing.*** If a product in a permanent listing classification is delisted, a new listing request for the product may be submitted not less than six months after the date the product was removed from the warehouse.

[ARC 5910C, IAB 9/22/21, effective 10/27/21]

**185—8.8(123) Barrel programs.** A supplier may offer a barrel program, allowing a class "E" retail alcohol licensee to purchase the bottled contents of a barrel-aged product along with the aging barrel.

**8.8(1)** Barrel programs shall be uniformly offered to all class "E" retail alcohol licensees.

**8.8(2)** Suppliers may sample barrel-aged products pursuant to rule 185—16.8(123).

**8.8(3)** Barrel program products shall be classified as special orders.

**8.8(4)** Products purchased as part of a barrel program shall be sold and delivered to the individual class "E" retail alcohol licensee that placed the special order. Barrel program special orders and products shall not be split between two or more class "E" retail alcohol licensees.

**8.8(5)** Aging barrels sold in conjunction with a barrel program shall bear conspicuous and substantial advertising matter.

**8.8(6)** Bottles from a barrel program may bear customized labels.

[ARC 7073C, IAB 9/20/23, effective 10/25/23]

These rules are intended to implement Iowa Code sections 123.10(2), 123.10(3), 123.10(6), and 123.10(10).

[Filed 12/14/72]

[Filed 2/16/79, Notice 12/27/78—published 3/7/79, effective 4/16/79]

[Filed 8/15/80, Notice 5/28/80—published 9/3/80, effective 10/8/80]

[Filed emergency 5/19/82—published 6/9/82, effective 5/19/82]

[Filed 3/9/84, Notice 1/4/84—published 3/28/84, effective 5/2/84]

[Filed emergency 10/10/85—published 11/6/85, effective 10/10/85]

[Filed emergency 6/11/86—published 7/2/86, effective 7/1/86]

[Editorially transferred from [150] to [185], IAC Supp. 10/8/86; see IAB 7/30/86]

[Filed ARC 5910C (Notice ARC 5734C, IAB 6/30/21), IAB 9/22/21, effective 10/27/21]

[Filed ARC 7073C (Notice ARC 7049C, IAB 7/26/23), IAB 9/20/23, effective 10/25/23]



CHAPTER 9  
PERSONAL IMPORTATION OF ALCOHOLIC LIQUOR, WINE, AND BEER

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**185—9.1(123) Tax liability.** The division makes no judgment or decision regarding any tax liability resulting from the personal importation of alcoholic liquor, wine, or beer as provided in Iowa Code section 123.10, 123.22, 123.171, or 123.122, as applicable.

[ARC 3994C, IAB 9/12/18, effective 10/17/18; ARC 5192C, IAB 9/23/20, effective 10/28/20]

**185—9.2(123) Personal importation in excess of the amounts provided—waiver.** The administrator may provide for the issuance of a waiver for an individual of legal age desiring to import alcoholic liquor, wine, or beer in excess of the amounts provided in Iowa Code section 123.22, 123.171, or 123.122. The decision on whether the circumstances justify the issuance of a waiver shall be made at the discretion of the administrator upon consideration of all the relevant factors.

**9.2(1) Criteria.** The division may, in response to a completed request, issue a waiver, as applied to the circumstances of a specific situation if the division finds each of the following:

- a. The requester is an individual of legal age;
- b. The requester is an individual who was domiciled outside the state within one year of the request;
- c. The alcoholic liquor, wine, or beer imported pursuant to the waiver shall be only for personal consumption in a private home or other private accommodation and only if it is not sold, exchanged, bartered, dispensed, or given in consideration of purchase for any property or services or in evasion of the requirements of Iowa Code chapter 123; and
- d. The alcoholic liquor, wine, or beer imported pursuant to the waiver shall be in unopened original containers.

**9.2(2) Domicile.** Domicile, for the purposes of establishing when an individual is “domiciled outside the state,” shall be determined in accordance with rule 701—38.17(422).

**9.2(3) Request.** All requests for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22, 123.171, or 123.122 shall be submitted in writing by completing a request for import authorization form and returning it to the division, as instructed.

**9.2(4) Content of form.** A request for import authorization form shall be prescribed by the division and shall include the following information: the name, date of birth, and personal contact information of the requester; full residential history of the requester for the past three years without gaps; a statement of reasons that the requester believes will justify import authorization; the destination address for the imported alcoholic beverages; the name, date of birth, and personal contact information of the recipient of the alcoholic beverages, if different from that of the requester; a detailed inventory of the alcoholic beverages for which the requester seeks import authorization; and any other information the administrator may require.

**9.2(5) Burden of persuasion.** When a request is filed for a waiver pursuant to this rule, the burden of persuasion shall be on the requester to demonstrate by clear and convincing evidence that the division should exercise its discretion in the granting of the waiver.

**9.2(6) Notice.** The division shall acknowledge a request for a waiver upon receipt of a completed request for import authorization form.

**9.2(7) Additional information.** Prior to granting or denying a request for a waiver, the division may request additional information from the requester relative to the request and surrounding circumstances.

**9.2(8) Investigation.** The division may conduct an investigation as the administrator deems necessary to determine that the requester meets the criteria in subrule 9.2(1) or to verify the accuracy of the information provided by the requester.

**9.2(9) Ruling.** A letter granting or denying a request for a waiver to import alcoholic liquor, wine, or beer in excess of the amount provided in Iowa Code section 123.22, 123.171, or 123.122 shall be in writing and shall contain a description of the precise scope and duration of the waiver if one is issued.

**9.2(10) *Duration of waiver.*** A waiver issued pursuant to this rule shall allow only for the importation of the inventory of alcoholic beverages detailed on the request for import authorization form. If a waiver is granted, there is no automatic right to renewal.

**9.2(11) *Public availability.*** The division shall maintain a record of all waivers granted or denied under this rule. All rulings in response to requests for waivers shall be indexed and available to members of the public at the Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021. Waivers containing information that the division is authorized or required to keep confidential shall be edited prior to public inspection.

**9.2(12) *Cancellation.*** A waiver issued by the division pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice, the division finds any of the following:

*a.* The requester of the waiver withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

*b.* The recipient of the waiver has failed to comply with any of the conditions contained in the waiver.

**9.2(13) *Violations.*** Violation of a condition in a waiver is equivalent to a violation of Iowa Code section 123.10, 123.22, 123.171, or 123.122, as applicable. The recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the applicable Iowa Code section.

**9.2(14) *Defense.*** After the division grants a waiver under this rule, the waiver is a defense within its terms and the specific facts indicated therein for the recipient of the waiver in any proceedings in which the waiver in question is sought to be invoked.

**9.2(15) *Appeals.*** Granting or denying a request for a waiver is final agency action under Iowa Code chapter 17A.

[ARC 3994C, IAB 9/12/18, effective 10/17/18; ARC 5192C, IAB 9/23/20, effective 10/28/20]

These rules are intended to implement Iowa Code sections 123.10, 123.22, 123.59, 123.22, and 123.171.

[Filed ARC 3994C (Notice ARC 3891C, IAB 7/18/18), IAB 9/12/18, effective 10/17/18]

[Filed ARC 5192C (Notice ARC 5078C, IAB 7/15/20), IAB 9/23/20, effective 10/28/20]

CHAPTER 10  
CONTESTED CASES

[Ch 10, IAC 11/3/75 rescinded see Ch 11]

[Prior to 10/8/86, Beer and Liquor Control Department[150]]

Rescinded **ARC 8932C**, IAB 2/19/25, effective 3/26/25

CHAPTER 11  
PROCEDURE—HEARING BOARD

185—Chapter 11 rescinded IAB 8/18/93, effective 7/29/93.

CHAPTER 12  
FORMS

[Prior to 10/8/86, Beer and Liquor Control Department[150]]

Rescinded **ARC 3928C**, IAB 8/1/18, effective 9/5/18

CHAPTER 13  
OPERATION OF STATE LIQUOR STORES

Rescinded IAB 5/19/99, effective 6/23/99



CHAPTER 14  
PRIVATE WINE SALES

[Prior to 10/8/86, Beer and Liquor Control Department[150]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**185—14.1(123) Wine definition.** Wine means any beverage containing more than 5 percent, but not more than 17 percent, of alcohol by weight obtained by the fermentation of the natural sugar content of fruits or other agricultural products by excluding any product containing alcohol derived from malt or by the distillation process from grain cereal, molasses, or cactus. Any wines obtained by the process defined herein that contain more than 17 percent of alcohol by weight will be considered an alcoholic liquor.

This rule is intended to implement Iowa Code section 123.3(37).

**185—14.2(123) Bottle label requirements and registration.** All holders of a vintner's certificate of compliance must register with the division the labels on all wines they wish to distribute for sale in the state. Applications for label approval will be in letter form and will include a copy of the approved ATF Form 1649, along with the front and back label of the brand for which approval is being requested. No additional approval is required on size extensions unless there is a label change. No wines will be distributed for sales without prior label approval from the division. Requests for approval will be submitted to: The Alcoholic Beverages Division, 1918 S.E. Hulsizer, Ankeny, Iowa 50021, Attn: Products Division.

This rule is intended to implement Iowa Code section 123.21, subsection 7.

**185—14.3(123) Wholesaler discrimination.** Rescinded IAB 5/15/91, effective 6/19/91.

**185—14.4(123) Price postings by all holders of vintner's certificates of compliance.** Price postings by all holders of vintner's certificates of compliance will be required for all wines they wish to distribute within the state. These price postings will be submitted in the format as determined by the division. Prices posted will be the most current case price and should reflect the f.o.b. cost at the winery, out-of-state warehouse, or port of entry. Information will be made available by the division to all interested parties.

This rule is intended to implement Iowa Code section 123.21, subsection 6.

**185—14.5(123) Price postings.** Price postings will be required on all prices charged in sales between Class "A" wine permitholders and Class "B" permitholders. These price postings will contain the most current prices and will be submitted in the format as determined by the division. Frequency of submission will be monthly, commencing July 31, 1985, and each month thereafter as changes occur. The division will post a list of the most current price of wines it lists in a conspicuous place in the agency's central office and in all state liquor stores. Price postings from both the Class "A" wine permitholder and the division will be consolidated in a master price list each month. This information will be made available to all interested parties.

This rule is intended to implement Iowa Code section 123.21, subsection 6.

**185—14.6(123) Coupons.** Rescinded IAB 5/15/91, effective 6/19/91.

**185—14.7(123) Supplier discrimination.** A holder of a vintner's certificate of compliance shall not discriminate on the sale of wine to wholesalers of wine which the vintner designates and files with its application for a vintner's certificate of compliance as a wholesaler with whom it intends to do business. Nothing in this rule shall be construed to require any holder of a vintner's certificate of compliance to do business with any wine wholesaler. The holder of a vintner's certificate of compliance may appoint more than one wine wholesaler to service the same geographical territory.

This rule is intended to implement Iowa Code section 123.180.

**185—14.8** Rescinded, effective July 1, 1986.

These rules are intended to implement Iowa Code section 123.4.

[Filed emergency 8/2/85—published 8/28/85, effective 8/2/85]

- [Filed emergency 9/4/85—published 9/25/85, effective 9/4/85]
- [Filed emergency 10/28/85—published 11/20/85, effective 10/28/85]
- [Filed emergency 11/5/85—published 12/4/85, effective 11/16/85]
- [Filed emergency 12/17/85—published 1/15/86, effective 12/18/85]
- [Filed emergency 6/11/86—published 7/2/86, effective 7/1/86]
- [Editorially transferred from [150] to [185], IAC Supp. 10/8/86; see IAB 7/30/86]
- [Filed 4/26/91, Notice 3/20/91—published 5/15/91, effective 6/19/91]

CHAPTER 15  
AGENCY STORES

Rescinded IAB 5/15/91, effective 6/19/91



CHAPTER 16  
TRADE PRACTICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

The rules in this chapter, adopted pursuant to Iowa Code section 123.186, apply to transactions between industry members, trade buyers and retailers. The rules specify practices considered to be fair and allowable as well as practices deemed to be unfair or inducements. This chapter does not exempt any industry member, trade buyer or retailer from the requirements of any federal law or regulation.

PART I

As used in this chapter, the words, terms and phrases defined in this part shall apply, unless a different meaning is clearly indicated by the context.

**185—16.1(123) Definitions.**

*“Alcoholic liquor”* means “alcoholic liquor” as defined in Iowa Code section 123.3(5). For the purposes of this chapter, “alcoholic liquor” includes “native distilled spirits” as defined in Iowa Code section 123.3(34).

*“Beer”* means “beer” as defined in Iowa Code section 123.3(7). For the purposes of this chapter, “beer” includes “canned cocktail” as defined in Iowa Code section 123.3(11) and “high alcoholic content beer” as defined in Iowa Code section 123.3(22).

*“Brand”* means each alcoholic liquor, wine, or beer packaged and sold under a separate name, class, type, or kind designation (wine appellation of origin, wine vintage date, alcoholic liquor age, percentage of alcohol, etc.).

*“Department”* means the department of revenue.

*“Equipment”* includes, but is not limited to, mechanized and nonmechanized refrigeration units and devices used in the storage, dispensing, and cooling of alcoholic liquor, wine and beer, tap boxes, “party wagons,” dispensing systems, and shelving. Equipment does not include tapping accessories (including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves and “picnic” pumps) which are used in dispensing wine or beer from kegs or bulk packaging.

*“Exclusion,”* in whole or in part, means a practice by an industry member, whether direct, indirect, or through an affiliate, that places (or has the potential to place) retailer independence at risk by means of a tie or link between the industry member and retailer or by any other means of industry member control over the retailer, and such practice results in the retailer’s purchasing less than it would have of a competing industry member’s product. The following criteria are indications that a particular practice places retailer independence at risk. A practice need not meet all of the criteria specified below in order to place retailer independence at risk.

1. The practice restricts or hampers the free economic choice of a retailer to decide which products to purchase or the quantity in which to purchase them for sale to consumers.
2. The industry member obligates the retailer to participate in a promotion to obtain the industry member’s product.
3. The retailer has a continuing obligation to purchase or otherwise promote the industry member’s product.
4. The retailer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member’s products.
5. The practice involves the industry member in the day-to-day operations of the retailer. For example, the industry member controls the retailer’s decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the retailer’s premises.
6. The practice is discriminatory in that it is not offered to all retailers in the local market on the same terms without business reasons present to justify the difference in treatment.

*“Fixtures”* includes, but is not limited to, bar sinks, bars, light fixtures, and indoor or outdoor signs used to identify the retail establishment.

“*Furnishings*” includes, but is not limited to, money, services, chairs, tables, lamps, pictures, remodeling costs, bar sinks, carpeting, bar stools, display cabinets and curios, linens, linen services, china and silver or stainless steel eating and other utensils, decorations, and sound systems used by a retailer. (Durable and disposable glassware is addressed in rule 185—16.5(123).)

“*Furnishings, fixtures and equipment*” does not include the items identified in rule 185—16.2(123), subrules 16.3(1) and 16.3(2), rule 185—16.5(123), rule 185—16.6(123), rule 185—16.7(123), or paragraph 16.13(2)“a.”

“*Industry member*” means an alcoholic beverages manufacturer, including a distiller, vintner or brewer, bottler, importer, wholesaler, representative, broker, agent, officer, director, shareholder not considered an institutional investor as defined in Iowa Code section 123.3(27), partner or employee of each of the above.

“*Product*” means alcoholic liquor, wine, or beer as defined in Iowa Code chapter 123.

“*Retailer*” means the holder of an alcoholic beverages license or permit, agents, officers, directors, shareholders not considered institutional investors as defined in Iowa Code section 123.3(27), partners, and employees who sell alcoholic liquor, wine or beer to consumers for consumption on or off the premises of the licensee or permittee.

“*Sampling*” means the practice of industry members giving product to a retailer for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

“*Tasting*” means the presentation and serving of a product by industry members or retailers to consumers for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

“*Trade buyer*” means a person who is a wholesaler or retailer of alcoholic liquor, wine, or beer.

“*Trade spending*” means the practice of industry members promoting their brand by purchasing alcoholic beverages for consumers where alcoholic beverages are sold and served for on-premises consumption.

“*Wine*” means “wine” as defined in Iowa Code section 123.3(53). For the purposes of this chapter, “wine” includes “native wine” as defined in Iowa Code section 123.3(36).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 2254C, IAB 11/25/15, effective 12/30/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

## PART II

The rules in this part specify industry member practices that are allowed, under the conditions and within the limitations prescribed. The rules apply to transactions between industry members and retailers.

### 185—16.2(123) Product displays.

**16.2(1)** Except as otherwise provided in this rule, an industry member is prohibited, directly or indirectly, from inducing a retailer to purchase any products from the industry member to the exclusion, in whole or in part, of products sold or offered for sale by other industry members by any of the following means:

- a. Renting, leasing, or buying display space from a retailer.
- b. Paying a retailer to set up a display.
- c. Giving a special price on the products featured in the display or other products sold by the industry member.
- d. Providing free merchandise to a retailer in return for a display.

**16.2(2)** An industry member may give, furnish, sell, rent or loan product displays such as wine racks, bins, barrels, casks and portable, disposable shelving from which alcoholic beverages are displayed and sold, provided that the product display bears conspicuous and substantial advertising matter on the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product display. A product display is prohibited if it has secondary value to the retailer, for other than advertising purposes. An industry member is prohibited from requiring a retailer to purchase a specific quantity of alcoholic liquor, wine or beer in order to receive a product display.

**16.2(3)** The total value of all product displays may not exceed \$300 per brand at any one time in any one retail establishment. The value of the product display is the industry member’s original cost of the item.

**16.2(4)** Industry members may not pool or combine their dollar limitations in order to provide a retailer with a product display which exceeds \$300. Industry members are prohibited from pooling or combining several brands to provide a retailer with a product display which exceeds \$300.

**16.2(5)** An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code section 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.3(123) Retailer advertising utensils, consumer advertising specialties, retailer wearing apparel.**

**16.3(1) Retailer advertising utensils.**

a. An industry member may supply, give, or sell retailer advertising utensils which are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. Such materials include, but are not limited to, posters, placards, designs, inside signs (electric, mechanical or otherwise), billboards, window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

b. All retailer advertising utensils must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials.

c. An industry member shall not pay or credit a retailer, directly or indirectly, for using retailer advertising utensils or for any expense incidental to their use.

**16.3(2) Consumer advertising specialties.**

a. An industry member may furnish, give, or sell consumer advertising specialties to a retailer for unconditional distribution by the retailer to consumers. Consumer advertising specialties may include such items as nonalcoholic mixers, bottle or can openers, corkscrews, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pens or pencils, shirts, caps, and visors.

b. Consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member that is permanently inscribed or securely affixed.

c. An industry member shall not pay or credit a retailer, directly or indirectly, for distributing consumer advertising specialties or for any expense incidental to their use. There is no dollar limitation on consumer souvenirs.

d. In the event a consumer advertising specialty also advertises a local event not sponsored by the retailer, the consumer advertising specialty need only be offered by the industry member to the retailers within the local community where the event is held.

**16.3(3) Retailer wearing apparel.** An industry member may sell wearing apparel, including sweatshirts, T-shirts, pants, shorts, hats, caps, polo-type shirts, jackets, jerseys and other similar clothing, which bears substantial permanently affixed advertising identifying the industry member's name or products to a retailer for use by the retailer and the retailer's employees at not less than the industry member's laid-in cost of the items. There is no dollar limitation on wearing apparel which may be sold by an industry member to a retailer.

**16.3(4) Record keeping.** An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.4(123) Wine lists.** Rescinded ARC 7028C, IAB 5/31/23, effective 7/5/23.

**185—16.5(123) Glassware.**

**16.5(1) Disposable beer or wine glassware.**

a. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell disposable glassware (including foam, paper and one-use plastic cups) to a retailer.

b. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable glassware.

**16.5(2)** *Commemorative beer or wine glassware.*

a. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell commemorative glassware which bears substantial advertising matter identifying the industry member or the industry member's product to off-premises retailers for resale to consumers.

b. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling commemorative glassware to off-premises retailers at less than the industry member's laid-in cost.

**16.5(3)** *Durable or disposable alcoholic liquor glassware.*

a. An industry member engaged in the manufacturing or wholesaling of alcoholic liquor may sell durable or disposable (including foam, paper or one-use plastic cups) glassware to a retailer. The glassware must bear advertising matter which identifies the industry member or the industry member's product.

b. An industry member engaged in manufacturing or wholesaling alcoholic liquor is prohibited from selling durable or disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable or durable glassware.

**16.5(4)** *Record keeping.* An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.6(123) Tapping accessories and coil cleaning service.**

**16.6(1)** *Tapping accessories.*

a. An industry member may sell tapping accessories, identified in rule 185—16.1(123), and carbon dioxide to a retailer at not less than the industry member's laid-in cost.

b. An industry member may install tapping accessories at a retail establishment provided the retailer bears the cost of initial installation.

**16.6(2)** *Coil cleaning service.* An industry member may sell, furnish or give wine and beer coil cleaning services, including carbon dioxide filters and other necessary accessories to properly clean the coil and affix carbon dioxide filters, to a retailer. The manufacturer shall be responsible for paying for the costs if carbon dioxide filters are provided.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.7(123) Tasting.**

**16.7(1)** *Restrictions.*

a. The amount of product served per person during a tasting shall be limited to the following.

(1) No more than two one half of one-fluid-ounce tastes of any brand of alcoholic liquor.

(2) No more than two one-fluid-ounce tastes of any brand of wine.

(3) No more than two two-fluid-ounce tastes of any brand of beer.

(4) No more than two two-fluid-ounce tastes of a mixed drink or cocktail as defined in Iowa Code section 123.3.

b. Product shall not be served to, or allowed to be consumed by, any consumer who is under legal age, intoxicated, or simulating intoxication.

c. Product served during a tasting shall not be served by persons under 18 years of age.

d. Product served by an industry member shall be limited to the brands the industry member represents.

**16.7(2)** *Tastings conducted by an industry member.* An industry member may conduct a tasting on licensed and unlicensed premises, subject to the requirements and restrictions provided in this rule.

a. *Licensed premises.*

(1) A tasting may be conducted on licensed premises where alcoholic beverages are sold or served.

(2) A tasting shall be limited to the types of alcoholic beverages available for purchase as authorized by the license or permit.

(3) A tasting shall be held during the hours in which alcoholic beverages may be legally sold or served.

(4) An industry member may provide snack foods or hors d'oeuvres for the participants at the tasting.

(5) Product or food served during a tasting shall either be provided by the industry member or purchased at no more than the ordinary retail price from the license or permit holder on whose premises the tasting is being held.

(6) Any product or food remaining at the end of a tasting shall be removed from the licensed premises by the industry member.

*b. Unlicensed premises.*

(1) A tasting of wine or beer may be conducted in an unlicensed public place unless prohibited by Iowa Code section 123.46(2) or an applicable ordinance or regulation of the local authority.

(2) A tasting of alcoholic liquor, wine, or beer may be conducted in an unlicensed private place as defined in Iowa Code section 123.3.

(3) A tasting of alcoholic liquor is prohibited in an unlicensed public place.

(4) Wine and beer served during a tasting shall be obtained from the respective wholesaler.

(5) An industry member may provide snack foods or hors d'oeuvres for the participants at the tasting.

(6) Any product or food remaining at the end of a tasting shall be removed from the premises by the industry member.

**16.7(3) *Tastings conducted by a retailer.*** A retailer licensed or permitted for on- or off-premises consumption may conduct a tasting, subject to the requirements and restrictions provided in this rule.

*a.* Product served during a tasting shall be served by a retailer, the retailer's employees or agents, or an industry member who has the explicit consent of the retailer.

*b.* A tasting shall be limited to the types of alcoholic beverages available for purchase as authorized by the license or permit.

*c.* A tasting shall be held during the hours in which alcoholic beverages may be legally sold or served.

*d.* Product served during a tasting shall be legally obtained by the retailer as prescribed by Iowa Code chapter 123.

*e.* An off-premises license or permit holder may conduct a tasting when there is no charge for product or access.

*f.* Food may be provided by the retailer for the participants of a tasting.

**16.7(4) *Record keeping.*** An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code section 123.186.

[ARC 2254C, IAB 11/25/15, effective 12/30/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

### **185—16.8(123) Sampling.**

**16.8(1) *Conditions.*** An industry member may give product to a retailer who has not purchased the brand from that industry member within the preceding 12 months.

**16.8(2) *Quantity.*** Product given to a retailer shall not exceed the following amounts within a calendar year.

*a.* Three liters of any brand of alcoholic liquor.

*b.* Three liters of any brand of wine.

*c.* Three gallons of any brand of beer.

**16.8(3) *Procurement.*** An industry member shall obtain alcoholic liquor, wine, or beer used for sampling from the respective wholesaler.

**16.8(4) *Identification.*** Each container of product used for sampling shall be clearly marked with the word "SAMPLE". The marking shall not obscure the label of the container.

**16.8(5) *Record keeping.*** An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code section 123.186.

[ARC 2254C, IAB 11/25/15, effective 12/30/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.9(123) Trade spending.** An industry member may engage in the practice of trade spending.

**16.9(1) Advertising.** Trade spending shall be unannounced and unpublicized.

**16.9(2) Quantity.** The industry member shall be limited to purchasing one round of alcoholic beverages or nonalcoholic beverages for patrons of an on-premises retailer.

**16.9(3) Payment.** The industry member shall pay the retailer no more than the ordinary retail price for the alcoholic beverage or nonalcoholic beverage.

**16.9(4) Record keeping.** An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code section 123.186.

[ARC 2254C, IAB 11/25/15, effective 12/30/15]

**185—16.10(123) Discounts.** An industry member is prohibited from refusing to give a retailer a discount which is offered to other retailers in the market area even though the retailer declines to reduce the price to the consumer during the discount period, or to advertise the industry member's product during the promotion period.

This rule is intended to implement Iowa Code sections 123.135(4) and 123.180(4).

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.11(123) Combination packaging.** An industry member may package and distribute alcoholic liquor, wine, or beer in combination with other nonalcoholic items or products.

**16.11(1)** Combination packages shall not have secondary value to the retailer other than having the potential of attracting purchasers and promoting sales.

**16.11(2)** Combination packages shall be designed to be delivered intact to the consumer.

**16.11(3)** Industry members who sell alcoholic liquor to the department must comply with the department's policies regarding combination packaging.

This rule is intended to implement Iowa Code section 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.12(123) Consumer promotions.**

**16.12(1) Coupons.** The act by an industry member of furnishing to consumers coupons which are redeemable at a retail establishment does not constitute a means to induce provided the following conditions are met:

*a.* All retailers within the market where the coupon offer is made may redeem such coupons.

*b.* An industry member may not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee for the redemption of coupons.

**16.12(2) Direct offerings.** Contest prizes, premium offers, refunds, and like items may be offered by industry members directly to consumers. Officers, employees, and representatives of wholesalers or retailers are excluded from participation.

This rule is intended to implement Iowa Code section 123.186.

[ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.13(123) Advertising, display or distribution service.**

**16.13(1) Prohibition.** The act of an industry member paying or crediting a retailer, directly or indirectly, for any advertising, display, or distribution service is prohibited if the act results in exclusion. Such acts include, but are not limited to, the following:

*a.* Making payments or credits to retailers that are merely reimbursements, in full or in part, for such services purchased by a retailer from a third party.

*b.* Directly or indirectly sharing the cost of an advertisement with a retailer.

*c.* Purchasing advertising from a retailer on such things as, but not limited to, signs, scoreboards, programs, scorecards, and tote boards in ballparks, stadiums, auditoriums, racetracks, arenas, bowling alleys and all other retail establishments.

*d.* Purchasing advertising in a retailer publication for distribution to consumers or the general public.

- e. Providing reimbursements to retailers for setting up product or other displays.
- f. Paying the retailer via a promotion where the industry member rents display space at a retail establishment.

**16.13(2) Exceptions.**

a. Newspaper cuts, mats, or engraved blocks for use in retailers' advertisements may be given or sold by an industry member to a retailer selling the industry member's products.

b. An industry member may list the names and addresses of two or more unaffiliated retailers selling the products of an industry member in an advertisement of that industry member provided all of the following conditions are met:

- (1) The advertisement does not also contain the retail price of the product.
- (2) The listing is the only reference to the retailers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole.
- (3) The advertisement does not refer only to one retailer or only to retail establishments controlled directly or indirectly by the same retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

[ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.14(123) Stocking and product rotation.**

**16.14(1) Allowable activities.**

a. An industry member may stock, rotate, and reset alcoholic liquor, wine or beer sold by the industry member.

b. An industry member may affix prices to alcoholic liquor, wine or beer sold by the industry member at the time of delivery, provided that the retailer independently determines the price of the alcoholic liquor, wine and beer.

c. An industry member may build product displays either at the time of delivery or at other times.

d. An industry member may provide a retailer with a recommended shelf plan or shelf schematic for alcoholic liquor, wine, and beer.

**16.14(2) Prohibited activities.**

a. An industry member may not reset or rearrange another industry member's products without the explicit consent of the retailer.

b. An industry member is prohibited from removing another industry member's point-of-sale advertising matter.

This rule is intended to implement Iowa Code section 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.15(123) Sponsorships and special events.**

**16.15(1)** An industry member may contribute to charitable, civic, religious, fraternal, educational and community entities.

**16.15(2)** If such entity is conducting a special event as a retailer or in conjunction with a retailer, an industry member's contribution shall not induce the retailer, directly or indirectly, to purchase any products from the industry member to the exclusion, in whole or in part, of products sold or offered for sale by other industry members at the special event.

**16.15(3)** An industry member shall keep and maintain records in accordance with rule 185—16.18(123).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

[ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.16(123) Participation in educational seminars and retail association activities.**

**16.16(1) Educational seminars.** An industry member may give or sponsor educational seminars for employees of retailers either at the industry member's premises or at the retail establishment regarding such topics as use of a retailer's equipment, training seminars for employees of retailers, and tours of alcoholic beverages manufacturing facilities; however, an industry member is prohibited from paying a retailer's expenses or compensating a retailer for attending such seminars and tours.

**16.16(2) Retail association activities.** An industry member may participate in retail association activities in the following manner:

- a. Display its products at a trade show or convention.
- b. Rent display booth space provided that the rental fee is not excessive and is the same paid by all exhibitors.
- c. Provide hospitality for the persons attending the trade show or convention. The hospitality provided by the industry member shall be independent from association-sponsored activities.
- d. Purchase tickets, attend functions, and pay registration fees, provided that such payments are not excessive and are the same paid by all exhibitors.
- e. Pay for advertising in programs or brochures issued by retail associations at a convention or trade show, provided that the total payments made by an industry member do not exceed \$300 per calendar year to any one retail association.

This rule is intended to implement Iowa Code section 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.17** Reserved.

**185—16.18(123) Record keeping.**

**16.18(1)** Industry members are required to keep and maintain accurate records for a three-year period regarding each of the items which may be provided to retailers in the following rules:

- a. 185—16.2(123) (product displays).
- b. 185—16.3(123) (retailer advertising utensils, consumer advertising specialties, retailer wearing apparel).
- c. 185—16.5(123) (glassware).
- d. 185—16.7(123) (tasting).
- e. 185—16.8(123) (sampling).
- f. 185—16.9(123) (trade spending).
- g. 185—16.15(123) (sponsorships and special events).
- h. 185—16.16(123) (participation in educational seminars and retail association activities).

**16.18(2)** Records shall state the following:

- a. The name and address of the retailer receiving the item.
- b. The date the item was furnished, sold, given, loaned, leased, or rented.
- c. The item furnished.
- d. The industry member's laid-in cost of the item furnished.
- e. The charges to the retailer for the item.

**16.18(3)** Commercial records or invoices may be used to satisfy the requirements of this rule provided all of the required information appears on the record or invoice.

**16.18(4)** Records shall be open to representatives of the department during normal business hours of the industry member and may be subject to administrative subpoena issued by the department.

This rule is intended to implement Iowa Code sections 123.33 and 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.19 to 16.39** Reserved.

PART III

The rules in this part specify industry member practices that are a means to induce a retailer and that are prohibited. The rules apply to transactions between industry members and retailers.

**185—16.40(123) Equipment, furnishings, fixtures.**

**16.40(1)** An industry member is prohibited from directly or indirectly giving, selling, renting, or lending equipment, furnishings or fixtures to a retailer for use by the retailer or in the retail establishment.

**16.40(2)** A prohibited indirect inducement includes, but is not limited to, obtaining equipment, furnishings, or fixtures for a retailer through a third-party arrangement where the resulting benefits flow to an individual retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.  
[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.41(123) Interest in a retail establishment.** Rescinded **ARC 4791C**, IAB 12/4/19, effective 1/8/20.

**185—16.42(123) Free warehousing prohibited.** An industry member is prohibited, directly or indirectly, from providing free warehousing of products for a retailer by delaying delivery of alcoholic liquor, wine, or beer beyond the time that payment for the product is received or, if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.  
[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.43(123) Extension of credit and prepaid accounts.**

**16.43(1) Extension of credit.** An industry member is prohibited from extending credit on the sale of alcoholic liquor or beer to a retailer. An industry member may extend credit to a retailer on the sale of wine for not more than 30 days from the date of the sale.

**16.43(2) Prepaid accounts.**

*a.* An industry member may establish prepaid accounts in which retailers deposit a sum of money to pay for future purchases of alcoholic beverages products.

*b.* An industry member may not hold the money deposited in a prepaid account for future payment of a debt.

*c.* An industry member shall transfer the amount of the invoice from the retailer's prepaid account each time that the industry member makes a sale and a delivery to the retail establishment.

*d.* An industry member is not required to establish separate escrow accounts for prepaid accounts.

*e.* An industry member is responsible for accurately and honestly accounting for the funds held in a prepaid account.

*f.* A retailer may withdraw the money placed in a prepaid account at any time.

*g.* An industry member is prohibited from utilizing prepaid accounts to require a retailer to purchase any quota of alcoholic liquor, wine, or beer.

This rule is intended to implement Iowa Code sections 123.45 and 123.181(2).  
[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.44(123) Quota sales.** An industry member is prohibited from requiring a retailer to purchase and sell any quota of alcoholic liquor, wine or beer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.  
[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.45(123) Tie-in sales.** An industry member is prohibited from requiring a retailer to purchase one product in order to purchase another. This prohibition includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds or brands of products to a retailer, provided that the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product not wanted by the retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.  
[ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.46 to 16.59** Reserved.

#### PART IV

The rule in this part specifies that exclusive outlet arrangements with retailers are prohibited. The rule applies to transactions between industry members and retailers.

**185—16.60(123) Contracts to purchase alcoholic liquor, wine, or beer.****16.60(1)** *Implied or express contracts.*

*a.* Any contract or agreement, written or unwritten, which has the effect of requiring the retailer to purchase alcoholic liquor, wine, or beer from the industry member beyond a single sales transaction is prohibited, except as provided in paragraph 16.60(1)“*b.*” Examples of such contracts are:

(1) An advertising contract between an industry member and a retailer with the express or implied requirement of the purchase of the advertiser’s products.

(2) A sales contract awarded on a competitive bid basis which has the effect of prohibiting the retailer from purchasing from other industry members by requiring that, for the period of the agreement, the retailer purchase a product or line of products exclusively from the industry member or requiring that the retailer purchase a specific or minimum quantity during the period of the agreement.

*b.* An industry member and a retailer may enter into a supply contract for one year or less under which the industry member agrees to sell alcoholic liquor, wine, or beer to the retailer on an “as needed” basis provided that the retailer is not required to purchase any minimum quantity of such product.

**16.60(2)** *Third-party arrangements.*

*a.* Industry member requirements, by agreement or otherwise, with nonretailers which result in a retailer’s being required to purchase the industry member’s products are prohibited, regardless of whether the agreement or other arrangement originates with the industry member or the third party.

EXAMPLE: A supplier enters into a contractual agreement or other arrangement with a third party. This agreement or arrangement contains an industry member requirement as described above. The third party—a ballclub or municipal or private corporation not acting as retailer—leases the concession rights and is able to control the purchasing decisions of the retailer. The third party, as a result of the requirement, by agreement or otherwise, with the industry member, requires the retailer to purchase the industry member’s products to the exclusion, in whole or in part, of products sold or offered for sale by other industry members.

*b.* Prohibited business arrangements between an industry member and a third party may consist of such things as sponsoring radio or television broadcasting, paying for advertising, or providing other services or things of value.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.61 to 16.74** Reserved.

## PART V

The rule in this part specifies industry member practices that are a means to induce a retailer and that are prohibited. The rule applies to transactions between industry members and employees, officers, or representatives of retailers.

**185—16.75(123) Commercial bribery.** An industry member is prohibited from offering or giving a retailer free trips, bonuses or prizes based on sales of the industry member’s alcoholic beverages products.

This rule is intended to implement Iowa Code section 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15]

**185—16.76 to 16.89** Reserved.

## PART VI

The rules in this part specify sales arrangements that are prohibited. The rules apply to transactions between industry members and trade buyers.

**185—16.90(123) Consignment sales.** An industry member is prohibited from selling alcoholic liquor, wine, or beer to a retailer on consignment. Consignment means a sale under which the retailer is not obligated to pay for the alcoholic liquor, wine, or beer, until the product is sold by the retailer.

This rule is intended to implement Iowa Code section 123.186.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.91(123) Return of alcoholic liquor, wine, and beer.** An industry member may accept the return of alcoholic liquor, wine, and beer for ordinary and usual commercial reasons but is not obligated to do so.

**16.91(1)** *Ordinary and usual commercial reasons for exchanges and returns.*

*a. Defective products.*

(1) Products which are unmarketable because of product deterioration, leaking containers, damaged labels, or missing or mutilated tamper evident closures may be exchanged for an equal quantity of identical products or may be returned for cash or credit against outstanding indebtedness.

(2) Freshness dating. An industry member may accept a return of beer for cash or credit against outstanding indebtedness or exchange the beer for freshness reasons provided all of the following conditions are met:

1. The manufacturer of the beer has policies and procedures in place that specify the date the retailer must pull the product.

2. The industry member's freshness return/exchange policies and procedures are readily verifiable and consistently followed by the industry member.

3. The beer container has identifying markings that correspond with the pull date.

4. The beer product pulled by the trade buyer may not reenter the retail marketplace.

*b. Error in products delivered.* Any discrepancy between products ordered and products delivered may be corrected, within a reasonable period after delivery, by exchange of the products delivered for those which were ordered, or by a return for cash or credit against outstanding indebtedness.

*c. Products which may no longer be lawfully sold.* Products which may no longer be lawfully sold may be returned for cash or credit against outstanding indebtedness. This would include situations where, due to a change in regulation or administrative procedure over which the trade buyer or an affiliate of the trade buyer has no control, a particular size or brand is no longer permitted to be sold.

*d. Termination of business.* Products on hand at the time a trade buyer terminates operations via cancellation of the trade buyer's license or permit may be returned for cash or credit against outstanding indebtedness. This does not include the temporary seasonal shutdown of a trade buyer holding a 12-month license or permit.

*e. Termination of franchise.* When an industry member has sold products for cash or credit to one of its wholesalers and the distributorship arrangement is subsequently terminated, stocks of the product on hand may be returned for cash or credit against outstanding indebtedness.

*f. Change in product.* Except as provided in paragraph 16.91(2)"b," a trade buyer's inventory of a product which has been changed in formula, proof, label, or container may be exchanged for equal quantities of the new version of that product.

*g. Discontinued products.* When a producer or importer discontinues the production or importation of a product, a trade buyer's inventory of that product may be returned for cash or credit against outstanding indebtedness.

*h. Seasonal dealers.* Industry members may accept the return of products from retailers holding an eight-month seasonal license or permit upon cancellation of the license or permit. These returns shall be for cash or for credit against outstanding indebtedness.

**16.91(2)** *Reasons not considered ordinary and usual.* The following are not considered ordinary and usual commercial reasons for exchanges and returns. Exchanges and returns for these reasons are prohibited.

*a. Overstocked or slow-moving products.*

*b. Products for which there is only a limited or seasonal demand.*

This rule is intended to implement Iowa Code section 123.186.

[ARC 7028C, IAB 5/31/23, effective 7/5/23]

**185—16.92 to 16.104** Reserved.

#### PART VII

The rule in this part governs violations of rules within this chapter.

**185—16.105(123) Contested case—burden.** In any contested case alleging a violation of this chapter, the burden of demonstrating compliance with the lawful requirements for retention of the license or permit or certificate of compliance shall be placed on the licensee, permittee, or certificate of compliance holder.

This rule is intended to implement Iowa Code sections 17A.18(3) and 123.39.

[ARC 1992C, IAB 5/13/15, effective 6/17/15; ARC 7028C, IAB 5/31/23, effective 7/5/23]

[Filed emergency 8/2/85—published 8/28/85, effective 8/2/85]

[Filed emergency 10/10/85—published 11/6/85, effective 10/10/85]

[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]<sup>◇</sup>

[Editorially transferred [150] to [185], IAC Supp. 10/8/86; see IAB 7/30/86]

[Filed 4/26/91, Notice 3/20/91—published 5/15/91, effective 6/19/91]

[Filed 4/28/92, Notice 12/11/91—published 5/27/92, effective 7/1/92]

[Filed emergency 6/19/92—published 7/8/92, effective 6/19/92]

[Filed 10/10/00, Notice 8/9/00—published 11/1/00, effective 12/6/00]

[Filed 1/27/05, Notice 12/22/04—published 2/16/05, effective 3/23/05]

[Filed ARC 1992C (Notice ARC 1915C, IAB 3/18/15), IAB 5/13/15, effective 6/17/15]

[Filed ARC 2254C (Notice ARC 2106C, IAB 8/19/15), IAB 11/25/15, effective 12/30/15]

[Filed ARC 4791C (Notice ARC 4688C, IAB 10/9/19), IAB 12/4/19, effective 1/8/20]

[Filed ARC 7028C (Notice ARC 6667C, IAB 11/16/22), IAB 5/31/23, effective 7/5/23]

<sup>◇</sup> Two or more ARCs

CHAPTER 17  
CLASS "E" LIQUOR CONTROL LICENSES  
Rescinded **ARC 7073C**, IAB 9/20/23, effective 10/25/23

CHAPTER 18  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES  
Rescinded **ARC 8932C**, IAB 2/19/25, effective 3/26/25

CHAPTER 19  
WAIVERS FROM RULES  
Rescinded **ARC 8932C**, IAB 2/19/25, effective 3/26/25