

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]]

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 Rescinded ARC 7073C, IAB 9/20/23, effective 10/25/23.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.

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[◇] Two or more ARCs

¹ 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.

² See Alcoholic Beverages Division in IAB.