

CHAPTER 4
LIQUOR 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[Ch 4, IAC 7/1/75 rescinded 3/7/79; see Chs 4,5]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]]

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(18) does not include alcoholic liquor, wine, or beer as defined in Iowa Code sections 123.3(4), 123.3(5), 123.3(7), 123.3(19), 123.3(28), 123.3(30), 123.3(43) and 123.3(47).

“*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 2382C, IAB 2/3/16, effective 3/9/16; ARC 3928C, IAB 8/1/18, effective 9/5/18]

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 or permittee 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]

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(25)) 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.

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(25) 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(25) and 123.4.
[ARC 3928C, IAB 8/1/18, effective 9/5/18]

185—4.5(123) Mixed drinks or cocktails not for immediate consumption. An on-premises liquor control 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 2012 Iowa Acts, House File 2465, section 22, and this rule.

4.5(1) Definitions.

"Immediate consumption." For purposes of Iowa Code section 123.49(2) "d" as amended by 2012 Iowa Acts, House File 2465, section 22, and this rule, "immediate consumption" is defined as 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.” A mixed drink or cocktail is a beverage composed in whole or in part of alcoholic liquors, combined with other alcoholic beverages or nonalcoholic beverages or ingredients including but not limited to ice, water, soft drinks, or flavorings.

4.5(2) Location. Mixed drinks or cocktails which are not for immediate consumption shall be mixed, stored, and consumed on the liquor control licensed premises. Mixed drinks or cocktails shall not be removed from the 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*” as amended by 2012 Iowa Acts, House File 2465, section 22, and section 123.49(2) “*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.

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, 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 123.30(1).

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 subsection 123.49(2) as amended by 2012 Iowa Acts, House File 2465, section 22.

[ARC 0204C, IAB 7/11/12, effective 7/1/12; ARC 0406C, IAB 10/17/12, effective 11/21/12]

185—4.6(123) Filling and selling of beer in a container other than the original container. Class “B,” class “C,” and special class “C” liquor control licensees, class “B” and class “C” beer permittees, and the licensee’s or permittee’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 123.131 as amended by 2020 Iowa Acts, House File 2540, section 14; Iowa Code section 123.132; 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 "C" beer permittee 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).

h. A class "C" beer permittee shall only fill a growler at the time of an in-person sale.

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 sections 123.123, 123.131, and 123.132.

[ARC 2382C, IAB 2/3/16, effective 3/9/16; ARC 2777C, IAB 10/12/16, effective 11/16/16; ARC 3928C, IAB 8/1/18, effective 9/5/18; ARC 5191C, IAB 9/23/20, effective 10/28/20]

185—4.7(123) Improper conduct.

4.7(1) Illegality on premises. No licensee, permittee, their agent or employee, shall engage in any illegal occupation or illegal act on the licensed premise.

4.7(2) Cooperation with law enforcement officers. No licensee, permittee, their 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 licensee, permittee, their 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 licensee, permittee, their 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) Prohibited interest in business of licensee. Rescinded IAB 5/15/91, effective 6/19/91.

4.7(6) No licensee, permittee, its agents or employees, shall allow any filled, partially filled, or empty liquor glasses or liquor bottles, including miniature liquor bottles during the holiday season, to be taken off the licensed premises. However, unopened and opened containers and glasses of beer may be allowed to be taken off the licensed premises. A class "E" liquor control licensee, its agents or employees, shall not permit other liquor control licensees or consumers to remove partially filled, empty, open or unsealed containers of alcoholic liquor from the class "E" licensed premises.

4.7(7) 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 this division. Identifying markers shall demonstrate that the alcoholic liquor was lawfully purchased from this division.

4.7(8) A licensee or permittee, or an agent or employee of a licensee or permittee, who sells, gives or otherwise supplies alcoholic liquor, wine or beer to a person 19 or 20 years old does not subject the license or permit to suspension or revocation. The division or the local authority shall not impose any administrative sanction, including license suspension or revocation, upon a licensee or permittee who is convicted of a violation of Iowa Code section 123.47A, nor shall administrative proceedings pursuant to Iowa Code chapter 17A and Iowa Code section 123.39 be commenced against a licensee or permittee for a violation of Iowa Code section 123.47A.

4.7(9) The holder of a class "E" liquor control license shall sell alcoholic liquor in original, sealed and unopened containers only for off-premises consumption.

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

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 or permittee shall be deemed to be the act of the

licensee or permittee and shall subject the license or permit of said licensee or permittee to suspension or revocation.

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

185—4.9(123) Gambling evidence. The intentional possession or willful keeping of any gambling device, machine or apparatus as defined in Iowa Code section 99A.1 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 or permittee to suspension or revocation.

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

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 “C” liquor control licensees; class “B,” class “B” native, and class “C” native wine permittees; and the licensee’s or permittee’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 123.178, 123.178A, and 123.178B as amended by 2020 Iowa Acts, House File 2540, sections 4, 5, 6, 7, 8, and 9, 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 wine manufactured in Iowa by fermentation of fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients by a class “A” wine permittee.

“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 “wine” as defined in Iowa Code section 123.3(54).

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 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 wine or native wine from the original container procured from a class “A” wine permittee.
- e. Class “B” native and class “C” native wine permittees 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 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.

4.11(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 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 "B" native wine permittee 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 or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.172, 123.178, 123.178A, and 123.178B. [ARC 5191C, IAB 9/23/20, effective 10/28/20]

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 or permittee having an outdoor, contiguous, discernible area on the same property on which their licensed establishment is located may serve the type of alcoholic liquor or beer permitted by the license or permit in the outdoor area. After a licensee or permittee satisfies the requirements of this rule, they may serve and sell beer or liquor in both their indoor licensed establishment and in their outdoor area at the same time because an outdoor area is merely an extension of their licensed premise and is not a transfer of their license. A licensee or permittee, prior to serving in the outdoor area, must file with this division:

1. A new diagram showing the discernible outdoor area.
2. A letter from licensee or permittee telling what dates the outdoor area will be used.
3. A letter from local authority approving the outdoor area.
4. A letter from the insurance and bonding companies acknowledging that the outdoor area is covered by the dramshop insurance policy and the bond.

This rule is intended to implement Iowa Code sections 123.3(20), 123.4 and 123.38.

185—4.14(123) Revocation or suspension by local authority. When the local authority revokes or suspends a beer permit, wine permit, or liquor control license, they 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 and 123.39.

185—4.15(123) Suspension of liquor control license, wine permit, or beer permit. At the time of the suspension of any 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.

185—4.16(123) Cancellation of beer permits—refunds. A beer permittee, or the executor or administrator, may voluntarily surrender such permit to the division or to the local authority. When so surrendered to the division, the division will notify the local authority; state whether there is a complaint on file in the division office; and inquire if there are any complaints filed locally charging such permittee with violation of the laws that would make the permittee ineligible for a refund. When the permit is surrendered to the local authority, the local authority shall notify the division and inquire if there is a complaint on file with the division that would make the permittee ineligible for a refund. The local authority by itself, in the case of retail beer permits, shall make the refund on a quarterly use basis starting from the effective date of the permit. The local authority will complete, and send to the division, a cancellation certificate. The certificate is to be furnished by the division. The permit is to be attached to the cancellation certificate, if at all possible. The division must have all cancellations reported to them.

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

185—4.17(123) Prohibited storage of alcoholic beverages and wine. No licensee shall permit alcoholic beverages and wine, purchased under authority of a retail license or retail permit, 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 and wine on premises other than those covered by the license or permit. The administrator may allow class “D” liquor control 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” liquor control license.

This rule is intended to implement Iowa Code sections 123.4 and 123.21(11).

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 liquor 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 liquor license, wine permit, or beer permit at a different location. A liquor 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 obtain an application for a permanent transfer from the local authority or the division. The application must be approved by the local authority and sent to the division prior to the transfer. An endorsement from the insurance company holding the dramshop policy listing the new address must be sent to the division 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 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 letter from the local authority granting the temporary transfer must be sent to the division. The insurance company holding the dramshop policy must be notified of any change of address.

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

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 liquor control licensees and beer and wine permittees by execution pursuant to the provisions of Iowa Code chapter 626, entitled “Executions.”

4.19(1) A secured party as defined in Iowa Code section 554.9105(1) “m” may take possession of and dispose of a liquor control 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 liquor control license or permit of its debtor as defined in Iowa Code section 554.9105(1) “d” for the purpose of disposing of the alcoholic liquor, wine, and beer. However, if the debtor is a class “E” liquor control 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 liquor control 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 liquor control 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 liquor control 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 liquor control 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 liquor control 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 liquor control licensee 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 liquor control 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, 123.21(3), and 123.38.

185—4.20(123) Liquor store checks accepted. The Iowa state liquor stores and the division may accept checks from holders of a retail liquor control license, including a class “E” licensee, under the following conditions:

1. The check must be either the personal check of the licensee or the business check of the licensee. The business check must be the named establishment on the license and cannot be a check on another business owned or operated by the licensee.

2. The check must be signed by the licensee. (For all holders of liquor control licenses this is interpreted as those persons whose authorized signatures are on file with the bank for the licensee’s account). However, this does not preclude an agent of the licensee from presenting a check signed by the licensee in the normal transaction of buying liquor.

3. Traveler’s checks and bank drafts, signed by the licensee, will be accepted.

4. Personal checks or traveler’s checks may be accepted as payment for purchases in state liquor stores. Second party checks shall not be accepted as payment for purchases in state liquor stores. Vendors shall follow the policy established by the administrator of the division for accepting personal checks and traveler’s checks for the purchase of alcoholic beverages.

4.20(1) If a licensee presents this division with a check which is subsequently dishonored by the licensee’s bank, the administrator of this division shall cause a written notice of nonpayment and penalty to be served upon the licensee. If the licensee fails to satisfy the obligation within ten days after service of the notice, the administrator or designee shall hold a hearing as in other contested cases pursuant to Iowa Code chapter 17A to determine whether or not the licensee failed to satisfy the obligation within ten days after service of the notice of nonpayment and penalty. If the administrator determines that the licensee has failed to satisfy the obligation, after notice and an opportunity to be heard, the administrator

shall suspend the licensee's liquor control license for a period of not less than 3 and not more than 30 days.

4.20(2) A retail liquor establishment which tenders the division one insufficient funds check for the purchase of alcoholic liquor will lose its check-writing 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 liquor establishment which tenders the division more than one insufficient funds check for the purchase of alcoholic liquor will lose its check-writing 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 checks to the state liquor stores or this division in payment for alcoholic liquor, state liquor stores and this division may accept from the licensee: cash, money order payable to the division for the amount of the purchase, 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(3) The division may collect from the licensee a \$10 fee for each dishonored check tendered to the division by a licensee for the purchase of alcoholic beverages.

4.20(4) The division may accept from the general public for alcoholic beverages traveler's checks issued in a foreign country if payment is in U.S. dollars.

4.20(5) 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 check which is subsequently dishonored by the bank on which the check is drawn 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.

185—4.21(123) Where retailers must purchase wine. Retail licensees and retail permittees must purchase their wine from either a wine wholesaler or a wine and beer wholesaler. Retail licensees and retail permittees cannot buy wine from other retailers.

This rule is intended to implement Iowa Code subsections 123.30(3) and 123.178(3).

185—4.22(123) Liquor on licensed premises. Holders of liquor control licenses must purchase their liquor supplies from state liquor stores.

4.22(1) Exception to the above requirement. "Bona fide conventions or meetings" may bring their own legal liquor onto licensed premises under the following conditions:

a. "Bona fide conventions or meetings" shall be construed to mean an identifiable body of persons gathered together in furtherance of a specific common purpose or cause, whether political, fraternal, or business, including but not limited to structured club meetings and conventions, professional association functions, employer-employee gatherings and political dinners. Neither the mere purchase nor consumption of liquor nor the purchase of an admission ticket shall be deemed to create a specific common purpose or cause.

b. Liquor may be brought onto the licensed premises at a bona fide convention or meeting by either the sponsoring entity or the individuals comprising that entity.

c. Consumption or dispensation of liquor brought onto the licensed premises by a bona fide convention or meeting must be confined to the meeting place or convention rooms within the licensed premises.

d. The liquor must be served to the delegates or guests without cost.

e. At the completion of the convention or meeting, all liquor brought onto the licensed premises by the members of the convention or meeting must be removed from the licensed premises by those members.

f. All other laws and rules governing the license shall apply to dispensing and consumption of liquor at bona fide conventions or meetings, including hours for consumption and Sunday sales.

4.22(2) Reserved.

This rule is intended to implement Iowa Code sections 123.30, 123.46, and 123.95.

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 liquor license, wine permit, or beer permit; however, persons who are between the ages of 18 and 21 and hold a liquor license, wine permit, or beer permit before September 1, 1986, are not affected by or subject to this rule, and may hold such license or permit even though the licensee or permittee has not attained the age of 21. Persons 18 years of age and older may be bartenders, waiters, waitresses, and may handle alcoholic beverages, wine, and beer during the course of the person's employment for a licensee or permittee in establishments in which alcoholic beverages, wine, and beer are consumed. Persons 16 years of age and older may sell beer and wine in off-premises beer and wine establishments. Persons must be 18 years of age or older to work in a state liquor store.

This rule is intended to implement Iowa Code sections 123.30, 123.47A and 123.49.

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 an alcoholic beverages license or permit 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 files a completed application with the local authority or the division as required by applicable law.

b. The applicant files a current dram shop liability certificate with the local authority or the division if proof of dram shop liability is required as a condition precedent to the issuance of the license or permit.

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

d. The applicant files a bond with the local authority or the division if a bond is required as a condition precedent to the issuance of the license or permit under applicable law.

4.26(2) Timely filed status allows the holder of the license or permit to continue to operate under a license or permit after its expiration and until the local authority and the division have finally determined whether the license or permit should be issued. If the application for the license or permit 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 alcoholic beverages license or permit may not sell alcoholic liquor, wine or beer in the proposed establishment until a license or permit has been granted by the division.

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

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 liquor, wine, and beer cannot be consumed. No one, including licensee, permittee, and employees can consume beer, wine, or alcoholic beverages in their licensed establishment during hours which beer, wine, and alcoholic beverages cannot be sold. An establishment covered by a liquor license, wine permit, or beer permit can be used as a restaurant or any other lawful purpose during hours which beer, wine, or alcoholic liquor cannot be sold as long as beer, wine, or alcoholic beverages are not consumed during these hours.

This rule is intended to implement Iowa Code section 123.49.

185—4.29 Rescinded, effective 7/1/85.

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. No retail liquor licensee or retail beer permittee shall store beer except on premises licensed for retail sale and then only to the extent that the beer is intended for sale to consumers from the individually licensed premises where stored. The adoption of this rule shall not preclude a retail liquor licensee or a retail beer permittee from picking up beer from class "A" and "F" beer permittees and directly transporting the beer to the retail establishment where the beer is intended to be sold at retail.

This rule is intended to implement Iowa Code section 123.21.

185—4.32(123) Delivery of alcoholic liquor. Individuals who do not work for this division may operate a delivery service in which they will charge licensees a fee for picking up their alcoholic liquor orders at this 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. Licensees and permittees who hold a license or permit which allows them to sell bottled wine and bottled beer may deliver beer and wine to residences if the customers telephoned and requested that the beer and wine be delivered.

This rule is intended to implement Iowa Code subsection 123.21(10).

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 and permits 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 and permits.

This rule is intended to implement Iowa Code subsection 123.21(11).

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 subsection 123.21(5).

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

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

185—4.37(123) Business as usual on election days. Licensees and permittees may sell alcoholic liquor, wine, or beer during regular hours on days local and national elections are held because present Iowa law does not restrict the sale of liquor, wine, and beer on election days.

This rule is intended to implement Iowa Code subsection 123.21(3).

185—4.38(123) Sunday sale of wine. A holder of a class "B" wine permit or combination retail wine license, excluding any liquor control licensee or beer permittee which does not qualify for Sunday sales under Iowa Code sections 123.36(6) and 123.134(5), respectively, may sell wine for consumption off the premises between the hours of 10 a.m. and 12 midnight on Sundays. No fee shall be imposed for that privilege.

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

185—4.39(123) Intoxication notice. Rescinded IAB 8/18/93, effective 7/29/93.

185—4.40(123) Warehousing of beer and wine. A person holding a class "A" wine permit or a class "A" or "F" beer permit shall warehouse their wine or beer inventory within the state of Iowa. Persons issued a class "A" wine permit or class "A" or "F" beer permit prior to June 10, 1987, shall comply upon renewal or November 1, 1987, whichever date occurs first. A warehouse of a person holding a class "A" wine permit or a class "A" or "F" beer permit shall be considered a licensed premises.

This rule is intended to implement Iowa Code section 123.127.

185—4.41(123) Vending machines to dispense alcoholic beverages prohibited. A liquor control licensee or beer or wine permittee 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 sections 123.47, 123.47A, 123.49(1), 123.49(2) "b," 123.49(2) "h," and 123.49(2) "k."

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

² Two ARCs. See Alcoholic Beverages Division in IAB.