

House File 2340 - Enrolled

House File 2340

AN ACT

RELATING TO PUBLIC SAFETY NUISANCES CONCERNING LICENSED  
PREMISES WHERE ALCOHOLIC BEVERAGES, WINE, OR BEER IS SOLD OR  
CONSUMED.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 123.56 Public safety nuisances —  
procedure.

1. A public safety nuisance exists at a licensed premises for purposes of this section when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of the licensed premises commits any of the following acts on the licensed premises or in any parking lots or areas, including but not limited to public rights of way, adjacent to the licensed premises:

*a.* Unlawfully discharges a firearm or uses an offensive weapon, as defined in section 724.1, regardless of whether it inflicts injury or death.

*b.* Assaults another person with a dangerous weapon as defined in section 702.7 resulting in injury or death.

*c.* Engages in a riot as defined in section 723.1 on at least three separate days within any twelve-month period in which a peace officer responded for purposes of dispersing the participants in the riot. A person who willingly joins in or remains a part of a riot need not be the same person for each riot incident.

2. If the county attorney or city attorney where the licensed premises is located has reason to believe a public safety nuisance that constitutes a serious threat to the public safety exists, the county attorney or city attorney, or attorney acting at the direction of the county attorney or city attorney, may file a suit in equity in district court without bond seeking abatement of a public safety nuisance arising from a premises licensed under this chapter pursuant to the requirements of this section.

3. Upon filing a suit in equity in district court pursuant to subsection 2, the county attorney or city attorney shall notify the administrator of the action. Upon receiving notice, the administrator shall issue an order reducing the hours during which alcoholic beverages may be sold or consumed at retail on the licensed premises to between 6:00 a.m. and 10:00 p.m. each day of the week during the pendency of the action in equity. The county attorney or city attorney shall notify the administrator of any final action or judgment entered resulting from the action.

4. In an action seeking abatement of a public safety nuisance as provided in this section, evidence of other current violations of this chapter may be received by the court and considered in determining the remedial provisions of any abatement order. In addition, evidence of prior sanctions, violations of law, nuisance behavior, or general reputation relating to the licensed premises may be admissible in determining the reasonableness of remedial provisions of an abatement order. However, evidence of a prior conviction of the licensee, managers, employees, or contemporaneous patrons and guests is not necessary for purposes of considering or issuing an abatement order under this section. In an action under this section, the administrator may submit to the court a report as evidence on behalf of the division regarding the compliance history of the licensee or permittee for consideration by the court.

5. If the district court finds that a public safety nuisance exists, the court may enter judgment declaring the existence of the nuisance and order such remedial action as the court determines reasonable to abate the nuisance. The abatement

order may take the form of an injunction. The duration of an abatement order may be up to two years. Remedial action may include but is not limited to temporary closure of the licensed premises, revocation of the license for such period of time as is consistent with section 123.40, required change in business practice or operations, or posting of a bond. If a bond is ordered and posted, the bond shall be subject to forfeiture, in whole or in part, for any further actions contrary to the abatement order.

6. For purposes of this section, "*licensed premises*" means a premises where alcoholic beverages are authorized to be sold for consumption on the licensed premises and where the serving of food is only incidental to the consumption of alcoholic beverages on the premises.

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PAT GRASSLEY  
Speaker of the House

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JAKE CHAPMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2340, Eighty-ninth General Assembly.

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MEGHAN NELSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2022

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KIM REYNOLDS  
Governor