

House File 384 - Enrolled

House File 384

AN ACT

RELATING TO ALCOHOL BEVERAGE CONTROL CONCERNING CERTAIN CLASS
"C" LIQUOR CONTROL LICENSES, HOURS OF SALE OF ALCOHOLIC
BEVERAGES ON SUNDAY, AND THE DELIVERY OF CERTAIN ALCOHOLIC
BEVERAGES.

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

Section 1. Section 123.3, subsection 11, Code 2021, is amended to read as follows:

11. *"Canned cocktail"* means a mixed drink or cocktail that is premixed and packaged in a metal can and contains more than six and twenty-five hundredths percent of alcohol by volume but not more than fifteen percent of alcohol by volume. A mixed drink or cocktail mixed and packaged in a metal can pursuant to section 123.49, subsection 2, paragraph "d", subparagraph (3), shall not be considered a canned cocktail.

Sec. 2. Section 123.30, subsection 3, paragraph c, subparagraph (1), Code 2021, is amended to read as follows:

(1) A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors in original unopened containers from class "E" liquor control licensees only, wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only as provided in [sections 123.173](#) and [123.177](#), and to sell alcoholic beverages to patrons by the individual drink for

consumption on the premises only. However, alcoholic liquor, wine, and beer in original unopened containers may also be sold for consumption off the premises. In addition, mixed drinks or cocktails may also be sold for consumption off the premises subject to the requirements of [section 123.49, subsection 2](#), paragraph "d". The holder of a class "C" liquor control license may also hold a special class "A" beer permit for the premises licensed under a class "C" liquor control license for the purpose of operating a brewpub pursuant to [this chapter](#).

Sec. 3. Section 123.36, subsection 6, Code 2021, is amended to read as follows:

6. Any club, hotel, motel, native distillery, passenger-carrying boat or ship, railway corporation, air common carrier, or commercial establishment holding a liquor control license, subject to [section 123.49, subsection 2](#), paragraph "b", may apply for and receive permission to sell and dispense alcoholic beverages as authorized by [section 123.30](#) to patrons between the hours of ~~8:00~~ 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday. For the privilege of selling beer, wine, and alcoholic liquor on the premises on Sunday the liquor control license fee of the applicant shall be increased by twenty percent of the regular fee prescribed for the license pursuant to [this section](#), and the privilege shall be noted on the liquor control license.

Sec. 4. Section 123.46A, subsections 1 and 2, Code 2021, are amended to read as follows:

1. Licensees and permittees authorized to sell alcoholic liquor, wine, or beer in original unopened containers for consumption off the licensed premises may deliver alcoholic liquor, wine, or beer to a home, another licensed premises if there is identical ownership of the premises by the licensee or permittee, or other designated location in this state. Deliveries shall be limited to alcoholic beverages authorized by the licensee's or permittee's license or permit. Orders delivered to another licensed premises shall contain only those alcoholic beverages authorized for sale by the liquor control license or retail wine or beer permit covering the premises to which the alcoholic beverages will be delivered. Orders delivered to another licensed premises shall be fulfilled using

the alcoholic beverages inventory owned by the licensee or permittee who will receive the order for delivery. If the recipient refuses or fails to pick up the delivery, or is ineligible to receive the delivery, the alcoholic beverages shall be returned to the licensee or permittee who fulfilled the order.

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

a. Payment for the alcoholic liquor, wine, ~~or~~ beer, or mixed drinks or cocktails shall be received by the licensee or permittee at the time of order.

b. Orders for deliveries may be taken by the licensee or permittee between the hours of 2:00 a.m. and 6:00 a.m. on a day other than Sunday, and orders for deliveries may be taken between the hours of 2:00 a.m. and ~~8:00~~ 6:00 a.m. on a Sunday provided the licensee or permittee has been granted the privilege of selling alcoholic liquor, wine, ~~or~~ beer, or mixed drinks or cocktails on Sunday, notwithstanding any provision of section 123.49, subsection 2, paragraph "b", to the contrary.

c. Alcoholic liquor, wine, ~~or~~ beer, or mixed drinks or cocktails delivered to a person shall be for personal use and not for resale.

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

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

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

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

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

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

j. Valid proof of the recipient's identity and age shall

be obtained at the time of delivery, and the signature of a person twenty-one years of age or older shall be obtained as a condition of delivery.

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

~~l. Orders delivered to another licensed premises shall contain only those alcoholic beverages authorized for sale by the liquor control license or retail wine or beer permit covering the premises to receive the delivery.~~

~~m. Orders delivered to another licensed premises shall be fulfilled using the alcoholic beverages inventory owned by the licensee or permittee who received the order for delivery. If the recipient refuses or fails to pick up the delivery, or is ineligible to receive the delivery, the alcoholic beverages shall be returned to the licensee or permittee who fulfilled the order.~~

Sec. 5. Section 123.46A, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Licensees and permittees authorized to sell wine, beer, or mixed drinks or cocktails for consumption off the licensed premises in a container other than the original container may deliver the wine, beer, or mixed drinks or cocktails to a home or other designated location in this state only if the container other than the original container has been sold and securely sealed in compliance with this chapter or the rules of the division. Deliveries shall be limited to alcoholic beverages authorized by the licensee's or permittee's license or permit.

Sec. 6. Section 123.49, subsection 2, paragraph b, Code 2021, is amended to read as follows:

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

control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of ~~8:00~~ 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

Sec. 7. Section 123.49, subsection 2, paragraph d, subparagraphs (2) and (3), Code 2021, are amended to read as follows:

(2) Mixed drinks or cocktails mixed on the premises that are not for immediate consumption may be consumed on the licensed premises subject to the requirements of this subparagraph pursuant to rules adopted by the division. The rules shall provide that the mixed drinks or cocktails be stored, for no longer than seventy-two hours, in a labeled container in a quantity that does not exceed three gallons. The rules shall also provide that added flavors and other nonbeverage ingredients included in the mixed drinks or cocktails shall not include hallucinogenic substances or added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine. ~~In addition, the~~ The rules shall also require that the licensee keep records as to when the contents in a particular container were mixed and the recipe used for that mixture. In addition, mixed drinks or cocktails mixed on the premises pursuant to this subparagraph may be sold for consumption off the licensed premises as provided in and subject to the requirements of subparagraph (3).

(3) Mixed drinks or cocktails mixed on premises covered by a class "C" liquor control license or a class "C" native distilled spirits liquor control license for consumption off the licensed premises may be sold if the mixed drink or cocktail is immediately ~~sealed with a lid or other method of securing the product~~ filled in a sealed container and is promptly taken from the licensed premises prior to consumption of the mixed drink or cocktail. A mixed drink or cocktail that is sold ~~and sealed~~ in a sealed container in compliance with the requirements of this subparagraph and rules adopted by the division shall not be deemed an open container subject to the requirements of [sections 321.284](#) and [321.284A](#) if the sealed container is unopened and the seal has not been tampered

with, and the contents of the container have not been partially removed.

Sec. 8. Section 123.49, subsection 2, paragraph d, Code 2021, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) For purposes of this paragraph:

(a) "*Sealed container*" means a vessel, including a substantial or sturdy plastic container and a vacuum or heat-sealed pouch, containing a mixed drink or cocktail that is designed to prevent consumption without removal of a tamper-evident lid, cap, or seal. "*Sealed container*" does not include a container with a sipping hole or other opening for a straw, unless the hole or other opening includes a tamper-evident seal, but a straw may be separately provided with a sealed container to the consumer for off-premises consumption.

(b) "*Tamper-evident*" means a lid, cap, or seal that visibly demonstrates when a container has been opened.

Sec. 9. Section 123.134, subsection 4, Code 2021, is amended to read as follows:

4. Any club, hotel, motel, or commercial establishment holding a class "B" beer permit, subject to the provisions of section 123.49, subsection 2, paragraph "b", may apply for and receive permission to sell and dispense beer to patrons on Sunday for consumption on or off the premises between the hours of ~~8:00~~ 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday. Any class "C" beer permittee may sell beer for consumption off the premises between the hours of ~~8:00~~ 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday. For the privilege of selling beer on Sunday the beer permit fees of the applicant shall be increased by twenty percent of the regular fees prescribed for the permit pursuant to [this section](#) and the privilege shall be noted on the beer permit.

Sec. 10. Section 123.150, Code 2021, is amended to read as follows:

123.150 Sunday sales before New Year's Day.

Notwithstanding [section 123.36, subsection 6](#), section 123.49, subsection 2, paragraph "b", and section 123.134, subsection 4, a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense

alcoholic liquor, wine, or beer to patrons for consumption on the premises between the hours of ~~8:00~~ 6:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of ~~8:00~~ 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day. The liquor control license fee or beer permit fee of licensees and permittees permitted to sell or dispense liquor, wine, or beer on a Sunday when that Sunday is the day before New Year's Day shall not be increased because of this privilege. The special privileges granted in [this section](#) are in force only during the specified times provided in [this section](#).

PAT GRASSLEY
Speaker of the House

JAKE CHAPMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 384, Eighty-ninth General Assembly.

MEGHAN NELSON
Chief Clerk of the House

Approved _____, 2021

KIM REYNOLDS
Governor