

FEB 4 1972

HOUSE FILE 1133

Place On Calendar

By COMMITTEE ON STATE GOVERNMENT

*See State Govt. 2/4/72, Pass of w amend.*

Passed House, Date 2-14-72 Passed Senate, Date 3-23-72

Vote: Ayes 70 Nays 17 Vote: Ayes 33 Nays 14

Approved \_\_\_\_\_

*Passed House a/w Senate amendment*

*3-23-72*

*aye 79, nay 5*

## A BILL FOR

1 An Act making corrective amendments to the "Iowa Beer and Liquor  
2 Control Act" by defining the phrase "intoxicating liquor";  
3 changing the term of office of council members; allowing certain  
4 special permit holders to buy alcohol direct from distiller or  
5 wholesaler; amending the qualifications for the holding of certain  
6 special liquor permits; defining the authority of local issuing  
7 bodies upon initial issuance of liquor licenses and retail beer  
8 permits; changing the license fees for hotels and motels located  
9 outside corporate limits of cities and towns; correcting the  
10 omission of the words "and tax" in provisions relating to air  
11 common carriers; providing that certain refund provisions apply  
12 to all classes of retail beer permittees; providing notification  
13 of the transfer of location of the licensed premises for the  
14 retail sale of beer and liquor to the department and establishing  
15 a transfer fee by regulation; redefining areas in which retail  
16 licenses and permits may be granted; redefining the term "grocery  
17 store"; eliminating a conflict in population factors; making  
18 uniform the time a penalty of license suspension might last for  
19 all classes of beer permit holders and the holders of certificates  
20 of compliance by brewers and importers of malt beverages; and, by  
21 providing that books of accounts and records of beer permittees  
22 shall be open to inspection by the enforcement division of beer  
23 and liquor department of public safety during normal business  
24 hours.

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

1 Section 1. Chapter one hundred thirty-one (131), section  
2 three (3), subsection eight (8), Acts of the Sixty-fourth  
3 General Assembly, First Session, is amended to read as follows:

4 8. "Alcoholic liquor" ~~or~~ , "alcoholic beverage" or  
5 "intoxicating liquor" includes the three varieties of liquor  
6 defined in subsections five (5), six (6), and seven (7) of  
7 this section, except beer as defined in subsection nine (9)  
8 of this section but including all beverages made as described  
9 in such subsection which contain more than four percent of  
10 alcohol by weight, and every liquid or solid, patented or  
11 not, containing alcohol, spirits, or wine, and susceptible  
12 of being consumed by a human being, for beverage purposes.

13 Sec. 2. Chapter one hundred thirty-one (131), section  
14 six (6), Acts of the Sixty-fourth General Assembly, First  
15 Session, is amended to read as follows:

16 Sec. 6. APPOINTMENT--TERM--QUALIFICATIONS--COMPENSATION.  
17 The governor shall appoint the initial members of the council  
18 for respective terms of ~~one, two, three, four, and five~~ one  
19 and one-half, two and one-half, three and one-half, four and  
20 one-half, and five and one-half years, all of which shall  
21 commence January 1, 1972. Appointments thereafter shall be  
22 for five years and shall be made by the governor, subject  
23 to confirmation by two-thirds of the senate, within sixty  
24 days after the convening of the general assembly each year  
25 for the member whose term is to expire on the following July  
26 1. Members of the council shall be chosen on the basis of  
27 managerial ability and experience as business executives.  
28 Members may be reappointed for one additional term. Each  
29 member appointed shall receive full compensation for their  
30 services of two thousand five hundred dollars per annum in  
31 addition to reasonable and necessary expenses while attending  
32 meetings.

33 Sec. 3. Chapter one hundred thirty-one (131), section  
34 twenty-nine (29), subsections one (1) and two (2), Acts of  
35 the Sixty-fourth General Assembly, First Session, are amended

1 to read as follows:

2 1. To a physician, pharmacist, dentist, or veterinarian,  
3 entitling the holder to purchase ~~liquor~~ and import alcohol  
4 from distillers and wholesalers or from the state liquor  
5 stores for use medicinally and in compounding prescriptions  
6 and to sell the same for use medicinally in the compounded  
7 prescription only upon the prescription of a licensed physician  
8 or surgeon, or to use such ~~liquor~~ alcohol in manufacturing  
9 or compounding lotions, compounds, and like commodities not  
10 susceptible for beverage purposes, and to sell the same for  
11 public use.

12 2. To a soldiers home, sanitarium, hospital, college,  
13 or home for the aged which will entitle the holder to purchase  
14 ~~liquor~~ and import alcohol from distillers and wholesalers  
15 or from the state liquor stores for use for medicinal, labor-  
16 atory, and scientific purposes only.

17 Sec. 4. Chapter one hundred thirty-one (131), section  
18 twenty-nine (29), subsection four (4), paragraph "c", Acts  
19 of the Sixty-fourth General Assembly, First Session, is amended  
20 to read as follows:

21 c. That neither the applicant, if he is an individual,  
22 ~~or~~ nor any members of the firm or officers of the corporation,  
23 if the applicant is not an individual, has been convicted  
24 of any violation of the laws of this state with reference  
25 to the sale of alcoholic liquors or beer within the three  
26 years preceding the date of the affidavit.

27 Sec. 5. Chapter one hundred thirty-one (131), section  
28 thirty-two (32), subsection two (2), Acts of the Sixty-fourth  
29 General Assembly, First Session, is amended to read as follows:

30 2. ACTION BY LOCAL AUTHORITIES. The local authority shall  
31 either approve or disapprove the issuance of a liquor control  
32 license or retail beer permit, and shall endorse such approval  
33 or disapproval on the application and forward same along with  
34 the required fee and bond to the department. ~~The~~ Upon the  
35 initial issuance of a liquor control license or retail beer

1 permit, the fact that the local authority determines that  
2 no liquor control license or retail beer permit shall be  
3 issued shall not be held to be arbitrary, capricious, or  
4 without reasonable cause. There shall be no limit upon the  
5 number of liquor control licenses or retail beer permits  
6 which may be approved for issuance by local authorities.

7 Sec. 6. Chapter one hundred thirty-one (131), section  
8 thirty-six (36), subsection three (3), paragraph "d", Acts  
9 of the Sixty-fourth General Assembly, First Session, is amended  
10 to read as follows:

11 d. Hotels and motels located outside the corporate limits  
12 of any city or town, ~~one-thousand-three-hundred-dollars~~ a  
13 sum equal to that charged in the incorporated city or town  
14 located nearest the premises to be licensed, and in case there  
15 is doubt as to which of two or more differing corporate limits  
16 is the nearest, the license fee which is the largest shall  
17 prevail.

18 Sec. 7. Chapter one hundred thirty-one (131), section  
19 thirty-six (36), subsection five (5), paragraph "c", Acts  
20 of the Sixty-fourth General Assembly, First Session, is amended  
21 to read as follows:

22 c. For air common carriers, each company shall pay a base  
23 annual fee of five hundred dollars and, in addition, shall  
24 quarterly remit to the department an amount equal to seven  
25 dollars for each gallon of alcoholic liquor sold, given away,  
26 or dispensed in or over this state during the preceding  
27 calendar quarter. The class "D" license fee and tax for air  
28 common carriers shall be in lieu of any other fee or tax  
29 collected from such carriers in this state for the possession  
30 and sale of alcoholic liquor and beer.

31 Sec. 8. Chapter one hundred thirty-one (131), section  
32 thirty-eight (38), unnumbered paragraphs two (2) and three  
33 (3), Acts of the Sixty-fourth General Assembly, First Session,  
34 is amended to read as follows:

35 Any such licensee or permittee, or his executor, adminis-

1 trator, or any person duly appointed by the court to take  
2 charge of and administer the property or assets of the licensee  
3 or permittee for the benefit of his creditors, may voluntarily  
4 surrender such license or permit to the department and when  
5 so surrendered the department shall notify the local authority,  
6 and the department and such local authority, or the local  
7 authority by itself in the case of a class-"B" retail beer  
8 permit, shall refund to the person so surrendering the license  
9 or permit a proportionate amount of the fee paid for such  
10 license or permit as follows: If surrendered during the first  
11 three months of the period for which said license or permit  
12 was issued the refund shall be three-fourths of the amount  
13 of the fee; if surrendered more than three months but not  
14 more than six months after issuance the refund shall be one-  
15 half of the amount of the fee; if surrendered more than six  
16 months but not more than nine months after issuance the refund  
17 shall be one-fourth of the amount of the fee. No refund shall  
18 be made, however, for any special liquor permit, nor for a  
19 liquor control license or beer permit surrendered more than  
20 nine months after issuance. No refund shall be made to any  
21 licensee or permittee, upon the surrender of his license or  
22 permit, if there is at the time of said surrender a complaint  
23 filed with the department or local authority, charging him  
24 with a violation of the provisions of this Act. If upon  
25 hearing on any such complaint the license or permit is not  
26 revoked or suspended, then the licensee or permittee shall  
27 be eligible, upon surrender of his license or permit, to  
28 receive a refund as herein provided. But if his license or  
29 permit is revoked or suspended upon such hearing he shall  
30 not be eligible for the refund of any portion of his license  
31 or permit fee.

32 The local authority may in its discretion authorize a  
33 licensee or permittee to transfer the license or permit from  
34 one location to another within the same incorporated city  
35 or town, or within a county outside the corporate limits of

1 a city or town, provided that the premises to which the  
2 transfer is to be made would have been eligible for a license  
3 or permit in the first instance and such transfer will not  
4 result in the violation of any law. All transfers authorized,  
5 and the particulars of same, shall be reported to the director  
6 by the local authority. The director may by rule establish  
7 a uniform transfer fee to be assessed by all local authorities  
8 upon licensees or permittees to cover the administrative costs  
9 of such transfers, such fee to be retained by the local  
10 authority involved.

11 Sec. 9. Chapter one hundred thirty-one (131), section  
12 one hundred twenty-eight (128), subsection one (1), paragraph  
13 "b", Acts of the Sixty-fourth General Assembly, First Session,  
14 is amended to read as follows:

15 b. That the premises for which the permit is sought is  
16 and will continue to be equipped with sufficient tables and  
17 seats to accommodate twenty-five persons at one time, and  
18 ~~is located within a business district or an area now or~~  
19 ~~hereafter zoned as a business district~~ , in areas subjected  
20 to zoning by the local authority, is located within a commer-  
21 cial zone or an area which will be zoned for commercial use  
22 on the effective date of the permit.

23 Sec. 10. Chapter one hundred thirty-one (131), section  
24 one hundred twenty-nine (129), unnumbered paragraph two (2),  
25 Acts of the Sixty-fourth General Assembly, First Session,  
26 is amended to read as follows:

27 "Grocery store" means any retail establishment, the  
28 ~~principal~~ business of which consists of the sale of food,  
29 ~~or~~ or food products or beverages for consumption off the premises.

30 Sec. 11. Chapter one hundred thirty-one (131), section  
31 one hundred thirty-four (134), subsection two (2), paragraphs  
32 "a" and "b", Acts of the Sixty-fourth General Assembly, First  
33 Session, is amended to read as follows:

34 a. For premises located within the corporate limits of  
35 cities with a population of ~~over~~ ten thousand and over, three

1 hundred dollars.

2 b. For premises located within the corporate limits of  
3 cities or towns with a population of ~~over~~ at least fifteen  
4 hundred but less than ten thousand, two hundred dollars.

5 Sec. 12. Chapter one hundred thirty-one (131), section  
6 one hundred thirty-five (135), subsection five (5), Acts of  
7 the Sixty-fourth General Assembly, First Session, is amended  
8 to read as follows:

9 5. Notwithstanding any other penalties provided by this  
10 Act, any holder of a certificate of compliance or any class  
11 "A" permit holder who shall violate any of the provisions  
12 of this section shall be subject to a fine not to exceed one  
13 thousand dollars or suspension of his certificate or permit  
14 for a period not to exceed ~~sixty-days~~ one year or both such  
15 fine and suspension.

16 Sec. 13. Chapter one hundred thirty-one (131), section  
17 one hundred thirty-eight (138), Acts of the Sixty-fourth  
18 General Assembly, First Session, is amended to read as follows:

19 Sec. 138. BOOKS OF ACCOUNT REQUIRED. Each class "A" per-  
20 mittee shall keep proper books of account and records showing  
21 the amount of beer sold by him, which books of account shall  
22 be at all times open to inspection by the director. Each  
23 class "B" and class "C" permittee shall keep proper books  
24 of account and records showing each purchase of beer made  
25 by him, and the date and the amount of each purchase and the  
26 name of the person from whom each purchase was made, which  
27 books of account and records shall be ~~at-all-times~~ open to  
28 inspection by the director and agents of the division of beer  
29 and liquor law enforcement of the department of public safety  
30 during normal business hours of the permittee.

31 Sec. 14. This Act, being deemed of immediate importance,  
32 shall take effect and be in force from and after its  
33 publication in The Bellevue Herald-Leader, a newspaper  
34 published in Bellevue, Iowa, and in Lee Town News, a newspaper  
35 published in Des Moines, Iowa.

EXPLANATION

1  
2 This bill amends the beer and liquor control reorganization  
3 Act. Sections 1, 2, 3, 4, 5, 7, 11, 12, and 13 are corrective  
4 in nature. Section 6 amends the liquor license fee provisions  
5 to treat hotels and motels located outside of cities and towns  
6 the same as commercial establishments. Section 8 requires  
7 local authorities to report all transfers of licenses and  
8 permits to the director, and also authorizes the director  
9 to establish a uniform transfer fee to be assessed and kept  
10 by local authorities to cover administrative costs. Section  
11 9 rephrases the requirement that the premises of beer  
12 permittees be located within "business districts". It provides  
13 exceptions to the rule where the premise is located outside  
14 zoned areas. Section 10 redefines the term "grocery store".

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- 1 Amend House File 1133 as follows:  
2 1. Page 6, by adding after line 10 the  
3 following new section:  
4 "Sec. 9. Chapter one hundred thirty-one (131),  
5 section ninety-two (92), unnumbered paragraph two (2),  
6 Acts of the Sixty-fourth General Assembly, First  
7 Session, is amended to read as follows:  
8 Every liquor control incensee and class "B"  
9 beer permittee shall furnish proof of financial  
10 responsibility either by the existence of a liability  
11 insurance policy or by posting bond in such amount as  
12 determined by the department. However, upon evidence  
13 satisfactory to the department, a class "B" beer  
14 permittee which in fact sells beer for consumption  
15 off the premises only, shall be exempt from this  
16 requirement."  
17 2. By renumbering the remaining sections.

#### EXPLANATION OF AMENDMENT

This amendment exempts class "B" beer permittees who actually sell beer for consumption off the premises only from the requirement that they carry dram shop insurance or post bond.

Filed *Withdrawn 2/14*  
February 8, 1972

By BLOUIN of Dubuque

- 1 Amend House File 1133, page 5, line 32 by striking  
2 the words "may in its discretion" and inserting in  
3 lieu thereof the word "shall".

Filed - *Lost 2/14/72 (443)*  
February 10, 1972 *motion to*  
*reconsider passed 2/14*  
*amendment lost 2/14*

By NORPEL of Jackson

- 1 Amend House File 1133, page 6, line 29, by  
2 striking the word "or" and inserting in lieu thereof  
3 the word "and".

Offered from the floor and lost  
February 14, 1972

By CAMPBELL of Washington  
LIPSKY of Linn

#### SENATE AMENDMENT TO HOUSE FILE 1133

- 1 Amend House File 1133 as passed by the House as follows:  
2 1. Page 6, line 19, by striking the word "subjected"  
3 and by striking all of lines 20 and 21 and inserting  
4 in lieu thereof the following: "where such business is  
5 permitted by any valid zoning ordinance or will be so  
6 permitted".

Received from the Senate and concurred in. (1375)  
March 23, 1972

- 1 Amend House File 1133 as passed by the House as follows:
- 2 Page 6, line 19 by striking the word "subjected" and
- 3 by striking all of lines 20 and 21 and insert in lieu thereof
- 4 the following: "where such business is permitted by any valid
- 5 zoning ordinance or will be so permitted".

Filed - *adopted 3/23/72 (1120)*  
February 29, 1972

By COMMITTEE ON STATE GOVERNMENT

- 1 Amend House File 1133 as passed by the House as follows:
- 2 Page 6, by striking lines 27 through 29 inclusive and
- 3 inserting in lieu thereof the following: " 'Grocery
- 4 store' means any retail establishment, the principal
- 5 business of which consists of the sale of food or food
- 6 products for consumption off the premises."

Filed - *Lost 3/23/72 (1120)*  
March 3, 1972

By BASS, HILL, STEPHENS, and  
SMITH