

State of IOWA STATE GOVERNMENT: Horn, Chair; Welsh and Rife Van Camp.

MAR 2 1987

HOUSE FILE 393

STATE GOVERNMENT

BY JAY

Passed House, Date 3-23-87 (p 731) Passed Senate, Date 3/30/88 (P.1177)

Vote: Ayes 96 Nays 0 Vote: Ayes 37 Nays 7

Approved May 13, 1988

*Placed to recess (p. 748) prevailed 3/21
Approved House 3-31-87 (p 972)*

96-0

A BILL FOR

1 An Act to require all class "A" wine permit premises and class
2 "A" beer permit premises to be located within the state.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 393

1 Section 1. Section 123.124, Code 1987, is amended to read
2 as follows:

3 123.124 PERMITS -- CLASSES.

4 Permits for the manufacture and sale, or sale of beer shall
5 be divided into three classes, and shall be known as either
6 class "A", "B", or "C" permits. A class "A" permit shall
7 allow the holder to manufacture and sell beer at wholesale.
8 ~~The holder of a class "A" permit may manufacture beer of more~~
9 ~~than five percent of alcohol by weight for shipment outside~~
10 ~~this state only. However, a class "A" permit does not grant~~
11 ~~authority to manufacture wine as defined in section 123.3,~~
12 ~~subsection 7.~~ A class "B" permit shall allow the holder to
13 sell beer at retail for consumption on or off the premises. A
14 class "C" permit shall allow the holder to sell beer at retail
15 for consumption off the premises.

16 Sec. 2. Section 123.130, Code 1987, is amended to read as
17 follows:

18 123.130 AUTHORITY UNDER CLASS "A" PERMIT.

19 Any person holding a class "A" permit issued by the
20 division shall be authorized to manufacture and sell, or sell
21 at wholesale, beer for consumption off the premises, such
22 sales within the state to be made only to persons holding
23 subsisting class "A", "B" or "C" permits, or liquor control
24 licenses issued in accordance with the provisions of this
25 chapter. The holder of a class "A" permit may manufacture
26 beer of more than five percent alcohol by weight for shipment
27 outside this state only. However, a class "A" permit does not
28 grant authority to manufacture wine as defined in section
29 123.3, subsection 7.

30 All class "A" premises shall be located within the state.
31 All beer received by the holder of a class "A" permit from the
32 holder of a certificate of compliance before being resold must
33 first come to rest on the premises licensed by the class "A"
34 permit holder, must be inventoried, and is subject to the
35 barrel tax when resold as provided in section 123.136. A

1 class "A" permittee shall not store beer overnight except on
2 premises licensed under a class "A" permit.

3 Sec. 3. Section 123.173, unnumbered paragraph 2, Code
4 1987, is amended to read as follows:

5 A class "A" wine permit allows the holder to manufacture
6 and sell, or sell at wholesale, in this state, wine as defined
7 in section 123.3, subsection 7. The holder of a class "A"
8 wine permit may manufacture in this state wine having an
9 alcoholic content greater than seventeen percent by weight for
10 shipment outside this state ~~or-for-sale-to-the-division~~. All
11 class "A" premises shall be located within the state. A class
12 "B" wine permit allows the holder to sell wine at retail for
13 consumption off the premises.

14 EXPLANATION

15 This bill requires the premises of all class "A" wine and
16 class "A" beer permittees to be located within the state. It
17 also requires a class "A" beer permittee to store and
18 inventory all beer purchased from the holder of a certificate
19 of compliance on premises licensed under a class "A" permit
20 before it is resold, subject to the barrel tax.

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HOUSE FILE 393

H-3457

1 Amend House File 393 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 123.3, subsection 31, Code
5 1987, is amended to read as follows:

6 31. "Licensed premises" or "premises" means all
7 rooms, enclosures, contiguous areas, or places
8 susceptible of precise description satisfactory to the
9 administrator where alcoholic beverages liquor, wine,
10 or beer is sold, stored, or consumed or where any
11 business is conducted pertaining to the sale, storage,
12 or consumption of alcoholic liquor, wine, or beer
13 under authority of a liquor control license, wine
14 permit, or beer permit. A single licensed premise may
15 consist of multiple rooms, offices, storerooms,
16 enclosures, areas or places if they are wholly within
17 the confines of a single building or contiguous
18 grounds.

19 Sec. 2. Section 123.20, subsection 1, Code 1987,
20 is amended to read as follows:

21 1. To purchase receive alcoholic liquors and wine
22 on a bailment system for resale by the division in the
23 manner set forth in this chapter.

24 Sec. 3. Section 123.22, unnumbered paragraph 1,
25 Code 1987, is amended to read as follows:

26 The division has the exclusive right of importation
27 into the state of all forms of alcoholic liquor,
28 except as otherwise provided in this chapter, and a
29 person shall not import alcoholic liquor, except that
30 an individual of legal age may import and have in the
31 individual's possession an amount of alcoholic liquor
32 not exceeding one quart or, in the case of alcoholic
33 liquor personally obtained outside the United States,
34 one gallon for personal consumption only in a private
35 home or other private accommodation. No A distillery
36 shall not sell alcoholic liquor within the state to
37 any person but only to the division, except as
38 otherwise provided in this chapter. This section
39 vests in the division exclusive control within the
40 state as purchaser of all alcoholic liquor sold by
41 distilleries within the state or imported, except beer
42 and wine, and except as otherwise provided in this
43 chapter. The division shall receive alcoholic liquor
44 on a bailment system for resale by the division in the
45 manner set forth in this chapter. The division shall
46 act as the sole wholesaler of alcoholic liquor to
47 class "E" liquor control licensees.

48 Sec. 4. Section 123.24, subsection 2, paragraph a,
49 Code 1987, is amended to read as follows:

50 a. The division may accept from a class "E" liquor

1 control licensee a cashier's check which shows the
 2 licensee is the remitter or a check issued by the
 3 licensee in payment of alcoholic liquor. If a check
 4 is subsequently dishonored, the division shall cause a
 5 notice of nonpayment and penalty to be served upon the
 6 class "E" liquor control licensee or upon any person
 7 in charge of the licensed premises. The notice shall
 8 state that if payment or satisfaction for the
 9 dishonored check is not made within ten days of the
 10 service of notice, the licensee's liquor control
 11 license shall be suspended under section 123.39. The
 12 notice of nonpayment and penalty shall be in a form
 13 prescribed by the administrator, and shall be served
 14 by a peace officer sent by certified mail.

15 Sec. 5. Section 123.45, unnumbered paragraph 2,
 16 Code 1987, is amended to read as follows:

17 A person engaged in the business of manufacturing,
 18 bottling, or wholesaling alcoholic beverages, wine, or
 19 beer, or any jobber representative, broker, employee,
 20 or agent of such person, shall not directly or
 21 indirectly supply, furnish, give, or pay for any
 22 furnishings, fixtures, or equipment used in the
 23 storage, handling, serving, or dispensing of alcoholic
 24 beverages, wine, beer, or food within the place of
 25 business of a licensee or permittee authorized under
 26 this chapter to sell at retail; nor shall the person
 27 directly or indirectly extend any credit for alcoholic
 28 beverages or beer or pay for any such license or
 29 permit, nor directly or indirectly be interested in
 30 the ownership, conduct, or operation of the business
 31 of another licensee or permittee authorized under this
 32 chapter to sell at retail, nor hold a retail liquor
 33 control license or retail wine or beer permit, except
 34 that a person engaged in the business of manufacturing
 35 beer may sell beer at retail for consumption on or off
 36 the premises of the manufacturing facility and,
 37 notwithstanding any other provision of this chapter,
 38 the fact that such a person may be the holder of a
 39 class "A" beer permit, may be granted not more than
 40 one class "B" permit as defined in section 123.124 for
 41 such purpose. Any licensee or permittee who permits
 42 or assents to or is a party in any way to any such
 43 violation or infringement of this section is guilty of
 44 a violation of this section."

45 2. Title page, line 1, by striking the words "to
 46 require" and inserting the following: "relating to
 47 the regulation of the sale of alcoholic beverages by
 48 amending the definition of licensed premises, by
 49 requiring the division of alcoholic beverages to place
 50 its system of purchase of alcoholic liquor on a

Page Three

1 bailment system, by providing for service of notice of
 2 nonpayment and penalty by the division to a class "E"
 3 license by certified mail, and by requiring".

4 3. By renumbering as necessary.

BY RENAUD of Polk
 SWARTZ of Marshall
 JAY of Appanoose

HOUSE FILE 393

H-3458

1 Amend House File 393 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 123.3, Code 1987, is amended
5 by adding the following new subsections:
6 NEW SUBSECTION. 36. "City" means a municipal cor-
7 poration but not including a county, township, school
8 district, or any special purpose district or
9 authority.

10 NEW SUBSECTION. 37. "Unincorporated town" means a
11 compactly populated area recognized as a distinct
12 place with a distinct place-name which is not itself
13 incorporated or within the corporate limits of a city.

14 Sec. 2. Section 123.36, subsection 3, paragraph d,
15 Code 1987, is amended to read as follows:

16 d. Hotels and motels located outside the corporate
17 limits of any city, a sum equal to that charged in the
18 incorporated city located nearest the premises to be
19 licensed, and in case there is doubt as to which of
20 two or more differing corporate limits is the nearest,
21 the license fee which is the largest shall prevail.
22 However, if a hotel or motel is located in an
23 unincorporated town, for purposes of this subsection
24 the unincorporated town shall be treated as if it is a
25 city.

26 Sec. 3. Section 123.36, subsection 4, paragraph d,
27 Code 1987, is amended to read as follows:

28 d. Commercial establishments located outside the
29 corporate limits of any city, a sum equal to that
30 charged in the incorporated city located nearest the
31 premises to be licensed, and in case there is doubt as
32 to which of two or more differing corporate limits are
33 the nearest, the license fee which is the larger shall
34 prevail. However, if a commercial establishment is
35 located in an unincorporated town, for purposes of
36 this subsection the unincorporated town shall be
37 treated as if it is a city.

38 Sec. 4. Section 123.36, subsection 7, paragraph d,
39 Code 1987, is amended to read as follows:

40 d. Commercial establishments located outside the
41 corporate limits of any city, a sum equal to that
42 charged in the incorporated city located nearest the
43 premises to be licensed, and in case there is doubt as
44 to which of two or more differing corporate limits are
45 the nearest, the license fee which is the larger shall
46 prevail. However, if a commercial establishment is
47 located in an unincorporated town, for purposes of
48 this subsection the unincorporated town shall be
49 treated as if it is a city."

50 2. Page 2, by inserting after line 2 the

1 following:

2 Sec. 7. Section 123.134, subsection 2, paragraph
3 d, Code 1987, is amended to read as follows:

4 d. For premises located outside the corporate
5 limits of any city, a sum equal to that charged in the
6 incorporated city located nearest the premises to be
7 operated under the permit, and in case there is doubt
8 as to which of two or more differing corporate limits
9 are the nearest, the permit fee which is the largest
10 shall prevail. However, if the premises are located
11 in an unincorporated town, for purposes of this
12 subsection the unincorporated town shall be treated as
13 if it is a city."

14 3. Title page, line 1, by striking the words "to
15 require" and inserting the words "relating to liquor
16 control licenses and wine and beer permits by
17 providing for adjustment of fees for certain
18 businesses and permittees and by requiring".

19 4. By renumbering as necessary.

H-3458 FILED MARCH 27, 1987 BY HUMMEL of Benton

Adopted 3/31/87 (p. 918)

See State Gov. 4/2/87 Do. Pass 3/7 (p. 710)

HOUSE FILE **393**

BY JAY

(As Amended and Passed by the House March 31, 1987)

R Passed House, Date 4/5/88 (p. 1642) Passed Senate, Date 3/30/88 (p. 1177)

Vote: Ayes 87 Nays 0 Vote: Ayes 37 Nays 7

Approved May 12, 1988

R Passed Senate 4/12/88 (p. 1474)
21-13

A BILL FOR

1 An Act relating to the regulation of the sale of alcoholic
 2 beverages by amending the definition of licensed premises, by
 3 requiring the division of alcoholic beverages to place its
 4 system of purchase of alcoholic liquor on a bailment system,
 5 by providing for service of notice of nonpayment and penalty
 6 by the division to a class "E" license by certified mail, and
 7 relating to liquor control licenses and wine and beer permits
 8 by providing for adjustment of fees for certain businesses and
 9 permittees and by requiring all class "A" wine permit premises
 10 and class "A" beer permit premises to be located within the
 11 state.

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

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House Amendments _____

1 Section 1. Section 123.3, subsection 31, Code 1987, is
2 amended to read as follows:

3 31. "Licensed premises" or "premises" means all rooms,
4 enclosures, contiguous areas, or places susceptible of precise
5 description satisfactory to the administrator where alcoholic
6 beverages liquor, wine, or beer is sold, stored, or consumed
7 or where any business is conducted pertaining to the sale,
8 storage, or consumption of alcoholic liquor, wine, or beer
9 under authority of a liquor control license, wine permit, or
10 beer permit. A single licensed premise may consist of
11 multiple rooms, offices, storerooms, enclosures, areas or
12 places if they are wholly within the confines of a single
13 building or contiguous grounds.

14 Sec. 2. Section 123.20, subsection 1, Code 1987, is
15 amended to read as follows:

16 1. To purchase receive alcoholic liquors and-wine on a
17 bailment system for resale by the division in the manner set
18 forth in this chapter.

19 Sec. 3. Section 123.22, unnumbered paragraph 1, Code 1987,
20 is amended to read as follows:

21 The division has the exclusive right of importation into
22 the state of all forms of alcoholic liquor, except as
23 otherwise provided in this chapter, and a person shall not
24 import alcoholic liquor, except that an individual of legal
25 age may import and have in the individual's possession an
26 amount of alcoholic liquor not exceeding one quart or, in the
27 case of alcoholic liquor personally obtained outside the
28 United States, one gallon for personal consumption only in a
29 private home or other private accommodation. No A distillery
30 shall not sell alcoholic liquor within the state to any person
31 but only to the division, except as otherwise provided in this
32 chapter. This section vests in the division exclusive control
33 within the state as purchaser of all alcoholic liquor sold by
34 distilleries within the state or imported, except beer and
35 wine, and except as otherwise provided in this chapter. The

1 division shall receive alcoholic liquor on a bailment system
2 for resale by the division in the manner set forth in this
3 chapter. The division shall act as the sole wholesaler of
4 alcoholic liquor to class "E" liquor control licensees.

5 Sec. 4. Section 123.24, subsection 2, paragraph a, Code
6 1987, is amended to read as follows:

7 a. The division may accept from a class "E" liquor control
8 licensee a cashier's check which shows the licensee is the
9 remitter or a check issued by the licensee in payment of
10 alcoholic liquor. If a check is subsequently dishonored, the
11 division shall cause a notice of nonpayment and penalty to be
12 served upon the class "E" liquor control licensee or upon any
13 person in charge of the licensed premises. The notice shall
14 state that if payment or satisfaction for the dishonored check
15 is not made within ten days of the service of notice, the
16 licensee's liquor control license shall be suspended under
17 section 123.39. The notice of nonpayment and penalty shall be
18 in a form prescribed by the administrator, and shall be served
19 by a peace officer sent by certified mail.

20 Sec. 5. Section 123.45, unnumbered paragraph 2, Code 1987,
21 is amended to read as follows:

22 A person engaged in the business of manufacturing,
23 bottling, or wholesaling alcoholic beverages, wine, or beer,
24 or any jobber representative, broker, employee, or agent of
25 such person, shall not directly or indirectly supply, furnish,
26 give, or pay for any furnishings, fixtures, or equipment used
27 in the storage, handling, serving, or dispensing of alcoholic
28 beverages, wine, beer, or food within the place of business of
29 a licensee or permittee authorized under this chapter to sell
30 at retail; nor shall the person directly or indirectly extend
31 any credit for alcoholic beverages or beer or pay for any such
32 license or permit, nor directly or indirectly be interested in
33 the ownership, conduct, or operation of the business of
34 another licensee or permittee authorized under this chapter to
35 sell at retail, nor hold a retail liquor control license or

1 retail wine or beer permit, except that a person engaged in
2 the business of manufacturing beer may sell beer at retail for
3 consumption on or off the premises of the manufacturing
4 facility and, notwithstanding any other provision of this
5 chapter or the fact that such a person may be the holder of a
6 class "A" beer permit, may be granted not more than one class
7 "B" permit as defined in section 123.124 for such purpose.
8 Any licensee or permittee who permits or assents to or is a
9 party in any way to any such violation or infringement of this
10 section is guilty of a violation of this section.

11 Sec. 6. Section 123.3, Code 1987, is amended by adding the
12 following new subsections:

13 NEW SUBSECTION. 36. "City" means a municipal corporation
14 but not including a county, township, school district, or any
15 special purpose district or authority.

16 NEW SUBSECTION. 37. "Unincorporated town" means a
17 compactly populated area recognized as a distinct place with a
18 distinct place-name which is not itself incorporated or within
19 the corporate limits of a city.

20 Sec. 7. Section 123.36, subsection 3, paragraph d, Code
21 1987, is amended to read as follows:

22 d. Hotels and motels located outside the corporate limits
23 of any city, a sum equal to that charged in the incorporated
24 city located nearest the premises to be licensed, and in case
25 there is doubt as to which of two or more differing corporate
26 limits is the nearest, the license fee which is the largest
27 shall prevail. However, if a hotel or motel is located in an
28 unincorporated town, for purposes of this subsection the
29 unincorporated town shall be treated as if it is a city.

30 Sec. 8. Section 123.36, subsection 4, paragraph d, Code
31 1987, is amended to read as follows:

32 d. Commercial establishments located outside the corporate
33 limits of any city, a sum equal to that charged in the
34 incorporated city located nearest the premises to be licensed,
35 and in case there is doubt as to which of two or more

1 differing corporate limits are the nearest, the license fee
2 which is the larger shall prevail. However, if a commercial
3 establishment is located in an unincorporated town, for
4 purposes of this subsection the unincorporated town shall be
5 treated as if it is a city.

6 Sec. 9. Section 123.36, subsection 7, paragraph d, Code
7 1987, is amended to read as follows:

8 d. Commercial establishments located outside the corporate
9 limits of any city, a sum equal to that charged in the
10 incorporated city located nearest the premises to be licensed,
11 and in case there is doubt as to which of two or more
12 differing corporate limits are the nearest, the license fee
13 which is the larger shall prevail. However, if a commercial
14 establishment is located in an unincorporated town, for
15 purposes of this subsection the unincorporated town shall be
16 treated as if it is a city.

17 Sec. 10. Section 123.124, Code 1987, is amended to read as
18 follows:

19 123.124 PERMITS -- CLASSES.

20 Permits for the manufacture and sale, or sale of beer shall
21 be divided into three classes, and shall be known as either
22 class "A", "B", or "C" permits. A class "A" permit shall
23 allow the holder to manufacture and sell beer at wholesale.
24 ~~The holder of a class "A" permit may manufacture beer of more~~
25 ~~than five percent of alcohol by weight for shipment outside~~
26 ~~this state only. -- However, a class "A" permit does not grant~~
27 ~~authority to manufacture wine as defined in section 123.37~~
28 ~~subsection 7.~~ A class "B" permit shall allow the holder to
29 sell beer at retail for consumption on or off the premises. A
30 class "C" permit shall allow the holder to sell beer at retail
31 for consumption off the premises.

32 Sec. 11. Section 123.130, Code 1987, is amended to read as
33 follows:

34 123.130 AUTHORITY UNDER CLASS "A" PERMIT.

35 Any person holding a class "A" permit issued by the

1 division shall be authorized to manufacture and sell, or sell
2 at wholesale, beer for consumption off the premises, such
3 sales within the state to be made only to persons holding
4 subsisting class "A", "B" or "C" permits, or liquor control
5 licenses issued in accordance with the provisions of this
6 chapter. The holder of a class "A" permit may manufacture
7 beer of more than five percent alcohol by weight for shipment
8 outside this state only. However, a class "A" permit does not
9 grant authority to manufacture wine as defined in section
10 123.3, subsection 7.

11 All class "A" premises shall be located within the state.
12 All beer received by the holder of a class "A" permit from the
13 holder of a certificate of compliance before being resold must
14 first come to rest on the premises licensed by the class "A"
15 permit holder, must be inventoried, and is subject to the
16 barrel tax when resold as provided in section 123.136. A
17 class "A" permittee shall not store beer overnight except on
18 premises licensed under a class "A" permit.

19 Sec. 12. Section 123.134, subsection 2, paragraph d, Code
20 1987, is amended to read as follows:

21 d. For premises located outside the corporate limits of
22 any city, a sum equal to that charged in the incorporated city
23 located nearest the premises to be operated under the permit,
24 and in case there is doubt as to which of two or more
25 differing corporate limits are the nearest, the permit fee
26 which is the largest shall prevail. However, if the premises
27 are located in an unincorporated town, for purposes of this
28 subsection the unincorporated town shall be treated as if it
29 is a city.

30 Sec. 13. Section 123.173, unnumbered paragraph 2, Code
31 1987, is amended to read as follows:

32 A class "A" wine permit allows the holder to manufacture
33 and sell, or sell at wholesale, in this state, wine as defined
34 in section 123.3, subsection 7. The holder of a class "A"
35 wine permit may manufacture in this state wine having an

1 alcoholic content greater than seventeen percent by weight for
2 shipment outside this state ~~or-for-sale-to-the-division~~. All
3 class "A" premises shall be located within the state. A class
4 "B" wine permit allows the holder to sell wine at retail for
5 consumption off the premises.

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HOUSE FILE 393

-5692

1 Amend House File 393 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 1, line 14, by inserting after the word
4 "Code" the following: "Supplement".

5 2. Page 2, line 5, by inserting after the word
6 "Code" the following: "Supplement".

7 3. Page 3, by inserting after line 19 the
8 following:

9 "Sec. 6. Section 123.30, subsection 1, unnumbered
10 paragraph 2, Code Supplement 1987, is amended to read
11 as follows:

12 As a further condition for issuance of a liquor
13 control license, the applicant must give consent to
14 members of the fire, police and health departments and
15 the building inspector of cities; the county sheriff,
16 deputy sheriff, and state agents, and any official
17 county health officer to enter upon areas of the
18 premises where alcoholic beverages are stored, served,
19 or sold, without a warrant to inspect for violations
20 of the provisions of this chapter or ordinances and
21 regulations that cities and boards of supervisors may
22 adopt. However, a subpoena issued under section
23 421.17 or a warrant is required for inspection of
24 records, cash register receipts, a private business
25 office, or attached living quarters.

26 Sec. 7. Section 123.30, subsection 3, paragraph e,
27 Code Supplement 1987, is amended to read as follows:

28 e. Class "E". A class "E" liquor control license
29 may be issued and shall authorize the holder to
30 purchase alcoholic liquor from the division only and
31 to sell the alcoholic liquor to patrons for
32 consumption off the licensed premise and to other
33 liquor control licensees. A class "E" license shall
34 not be issued to premises at which gasoline is sold.
35 A holder of a class "E" liquor control license may
36 hold other retail liquor control licenses or retail
37 wine or beer permits, but the premises licensed under
38 a class "E" liquor control license shall be separate
39 from other licensed premises, though the separate
40 premises may have a common entrance. However, the
41 holder of a class "E" liquor control license may also
42 hold a class "B" wine or class "C" beer permit or both
43 for the premises licensed under a class "E" liquor
44 control license.

45 The division may issue a class "E" liquor control
46 license for premises covered by a liquor control
47 license or wine or beer permit for on-premise
48 consumption, if the premises are in a county having a
49 population under nine thousand five hundred in which
50 no other class "E" liquor control license has been

1 issued by the division, and no other application for a
2 class "E" license has been made within the previous
3 twelve consecutive months.

4 Sec. 8. Section 123.39, Code 1987, is amended by
5 adding the following new unnumbered paragraph:
6 NEW UNNUMBERED PARAGRAPH. If the cause for
7 suspension is a first offense violation of section
8 123.49, subsection 2, paragraph "h", and the violation
9 occurred on or after January 1, 1988, the
10 administrator or local authority shall impose a civil
11 penalty in the amount of three hundred dollars in lieu
12 of suspension of the license or permit. Local
13 authorities shall retain civil penalties collected
14 under this paragraph if the proceeding to impose the
15 penalty is conducted by the local authority. The
16 division shall retain civil penalties collected under
17 this paragraph if the proceeding to impose the penalty
18 is conducted by the administrator of the division. If
19 the matter is appealed to the division's hearing
20 board, the hearing board shall not reduce the amount
21 of the civil penalty imposed under this paragraph if a
22 violation of section 123.49, subsection 2, paragraph
23 "h" is found.

24 Sec. 9. Section 123.50, subsection 3, paragraph a,
25 Code 1987, is amended to read as follows:

26 a. Upon a first conviction, the violator's liquor
27 control license, wine permit, or beer permit shall be
28 suspended for a period of fourteen days. However, if
29 the conviction is for a violation of section 123.49,
30 subsection 2, paragraph "h", which occurred on or
31 after January 1, 1988, the violator's liquor control
32 license or wine or beer permit shall not be suspended,
33 but the violator shall be assessed a civil penalty in
34 the amount of three hundred dollars. Failure to pay
35 the civil penalty as ordered under section 123.39 or
36 this subsection will result in automatic suspension of
37 the license or permit for a period of fourteen days."

38 4. Page 3, line 20, by inserting after the word
39 "Code" the following: "Supplement".

40 5. Page 3, line 30, by inserting after the word
41 "Code" the following: "Supplement".

42 6. Page 4, line 6, by inserting after the word
43 "Code" the following: "Supplement".

44 7. Page 5, line 19, by inserting after the word
45 "Code" the following: "Supplement".

46 8. Page 6, by inserting after line 5 the
47 following:

48 "Sec. ____ . Section 123.177, subsection 1, Code
49 1987, is amended to read as follows:

50 1. A person holding a class "A" wine permit may

S-5692 Page 3

1 manufacture and sell, or sell at wholesale, wine for
2 consumption off the premises. Sales within the state
3 may be made only to the ~~division or to~~ persons holding
4 a class "A" or "B" wine permit, and to persons holding
5 a class "A", "B", "C" or "D" liquor control license,
6 and to persons holding a special permit issued under
7 section 123.29, subsection 3. A class "A" wine
8 permittee having more than one place of business shall
9 obtain a separate permit for each place of business
10 where wine is to be stored, warehoused, or sold."
11 9. By renumbering as necessary.

S-5692

Filed March 30, 1988

ADOPTED
(p. 1177)

BY WALLY E. HORN
ROBERT CARR
JOHN SOORHOLTZ
JACK NYSTROM
KEN SCOTT
JACK RIFE
ALVIN V. MILLER
EUGENE FRAISE

HOUSE FILE 393

S-5691

1 Amend House File 393 as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 1, by striking lines 1 through 13.

S-5691

Filed March 30, 1988

ADOPTED
(p. 1169)

BY. JOE WELSH

SENATE 49
MARCH 31, 1988

HOUSE FILE 393

S-5705

1 Amend House File 393, as amended, passed, and re-
2 printed by the House, as follows:
3 1. Title page, line 6, by inserting after the
4 word "mail," the following: "by limiting the areas of
5 licensed premises which may be searched without a
6 warrant, by providing that separate licensed premises,
7 one under a class "E" liquor control license and the
8 other under another retail liquor control license or a
9 retail wine or beer permit, may share a common
10 entrance, by providing an exemption to the licensing
11 requirements for a class "E" liquor control license in
12 counties under nine thousand five hundred in
13 population, by providing for the assessment of a civil
14 penalty in lieu of a license suspension for an offense
15 by a licensee, by allowing a person holding a special
16 permit for the purchase of sacramental wine to
17 purchase from a class "A" wine permittee,".

S-5705

Filed March 30, 1988 ADOPTED BY JOE WELSH
(p. 1177)

HOUSE FILE 393

S-5699

1 Amend amendment S-5692 to House File 393, as
2 amended, passed and reprinted by the House as
3 follows:
4 1. Page 2, by striking lines 4 through 37.

S-5699

Filed March 30, 1988 LOST BY WILLIAM DIELEMAN
(p. 1177) EDGAR HOLDEN

HOUSE FILE 393

S-5703

1 Amend House File 393 as amended, passed, and
2 reprinted by the House, as follows:
3 1. By striking page 3, line 11 through page 4,
4 line 16.
5 2. Page 5, by striking lines 19 through 29.
6 3. By renumbering as required.

S-5703

Filed March 30, 1988 OUT OF ORDER BY PATRICK J. DELUHERY
(p. 1177) ALVIN MILLER

SENATE AMENDMENT TO HOUSE FILE 393

H-6137

1 Amend House File 393 as amended, passed, and
2 reprinted by the House as follows:

- 3 1. Page 1, by striking lines 1 through 13.
- 4 2. Page 1, line 14, by inserting after the word
- 5 "Code" the following: "Supplement".
- 6 3. Page 2, line 5, by inserting after the word
- 7 "Code" the following: "Supplement".
- 8 4. Page 3, by inserting after line 19 the
- 9 following:

633 10 "Sec. 6. Section 123.30, subsection 1, unnumbered
11 paragraph 2, Code Supplement 1987, is amended to read
12 as follows:

13 As a further condition for issuance of a liquor
14 control license, the applicant must give consent to
15 members of the fire, police and health departments and
16 the building inspector of cities; the county sheriff,
17 deputy sheriff, and state agents, and any official
18 county health officer to enter upon areas of the
19 premises where alcoholic beverages are stored, served,
20 or sold, without a warrant to inspect for violations
21 of the provisions of this chapter or ordinances and
22 regulations that cities and boards of supervisors may
23 adopt. However, a subpoena issued under section
24 421.17 or a warrant is required for inspection of
25 records, cash register receipts, a private business
office, or attached living quarters.

26 Sec. 7. Section 123.30, subsection 3, paragraph e,
27 Code Supplement 1987, is amended to read as follows:

28 e. Class "E". A class "E" liquor control license
29 may be issued and shall authorize the holder to
30 purchase alcoholic liquor from the division only and
31 to sell the alcoholic liquor to patrons for
32 consumption off the licensed premise and to other
33 liquor control licensees. A class "E" license shall
34 not be issued to premises at which gasoline is sold.
35 A holder of a class "E" liquor control license may
36 hold other retail liquor control licenses or retail
37 wine or beer permits, but the premises licensed under
38 a class "E" liquor control license shall be separate
39 from other licensed premises, though the separate
40 premises may have a common entrance. However, the
41 holder of a class "E" liquor control license may also
42 hold a class "B" wine or class "C" beer permit or both
43 for the premises licensed under a class "E" liquor
44 control license.

45 The division may issue a class "E" liquor control
46 license for premises covered by a liquor control
47 license or wine or beer permit for on-premise
48 consumption, if the premises are in a county having a
49 population under nine thousand five hundred in which
50 population under nine thousand five hundred in which

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1 no other class "E" liquor control license has been
2 issued by the division, and no other application for a
3 class "E" license has been made within the previous
4 twelve consecutive months.

5 Sec. 8. Section 123.39, Code 1987, is amended by
6 adding the following new unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. If the cause for
8 suspension is a first offense violation of section
9 123.49, subsection 2, paragraph "h", and the violation
10 occurred on or after January 1, 1988, the
11 administrator or local authority shall impose a civil
12 penalty in the amount of three hundred dollars in lieu
13 of suspension of the license or permit. Local
14 authorities shall retain civil penalties collected
15 under this paragraph if the proceeding to impose the
16 penalty is conducted by the local authority. The
17 division shall retain civil penalties collected under
18 this paragraph if the proceeding to impose the penalty
19 is conducted by the administrator of the division. If
20 the matter is appealed to the division's hearing
21 board, the hearing board shall not reduce the amount
22 of the civil penalty imposed under this paragraph if a
23 violation of section 123.49, subsection 2, paragraph
24 "h" is found.

25 Sec. 9. Section 123.50, subsection 3, paragraph a,
26 Code 1987, is amended to read as follows:

27 a. Upon a first conviction, the violator's liquor
28 control license, wine permit, or beer permit shall be
29 suspended for a period of fourteen days. However, if
30 the conviction is for a violation of section 123.49,
31 subsection 2, paragraph "h", which occurred on or
32 after January 1, 1988, the violator's liquor control
33 license or wine or beer permit shall not be suspended,
34 but the violator shall be assessed a civil penalty in
35 the amount of three hundred dollars. Failure to pay
36 the civil penalty as ordered under section 123.39 or
37 this subsection will result in automatic suspension of
38 the license or permit for a period of fourteen days."

39 5. Page 3, line 20, by inserting after the word
40 "Code" the following: "Supplement".

41 6. Page 3, line 30, by inserting after the word
42 "Code" the following: "Supplement".

43 7. Page 4, line 6, by inserting after the word
44 "Code" the following: "Supplement".

45 8. Page 5, line 19, by inserting after the word
46 "Code" the following: "Supplement".

47 9. Page 6, by inserting after line 5 the
48 following:

49 "Sec. ____ . Section 123.177, subsection 1, Code
50 1987, is amended to read as follows:

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Page 3

1 1. A person holding a class "A" wine permit may
2 manufacture and sell, or sell at wholesale, wine for
3 consumption off the premises. Sales within the state
4 may be made only to ~~the division or to~~ persons holding
5 a class "A" or "B" wine permit, and to persons holding
6 a class "A", "B", "C" or "D" liquor control license,
7 and to persons holding a special permit issued under
8 section 123.29, subsection 3. A class "A" wine
9 permittee having more than one place of business shall
10 obtain a separate permit for each place of business
11 where wine is to be stored, warehoused, or sold."

12 10. Title page, line 6, by inserting after the
13 word "mail," the following: "by limiting the areas of
14 licensed premises which may be searched without a
15 warrant, by providing that separate licensed premises,
16 one under a class "E" liquor control license and the
17 other under another retail liquor control license or a
18 retail wine or beer permit, may share a common
19 entrance, by providing an exemption to the licensing
20 requirements for a class "E" liquor control license in
21 counties under nine thousand five hundred in
22 population, by providing for the assessment of a civil
23 penalty in lieu of a license suspension for an offense
24 by a licensee, by allowing a person holding a special
25 permit for the purchase of sacramental wine to
26 purchase from a class "A" wine permittee,".

27 11. By renumbering, relettering, or redesignating
28 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-6137 FILED MARCH 31, 1988

House amended (6334) ✓
Concurred 4/8 (p. 1641)

HOUSE FILE 393

H-6334

1 Amend the Senate Amendment H-6137 to House File 393
2 as amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, by inserting after line 3 the
5 following:

6 " . Page 1, by inserting after line 13 the
7 following:

8 "Sec. . Section 123.14, subsection 2, Code
9 1987, is amended to read as follows:

10 2. The other law enforcement divisions of the
11 department of public safety, the county attorney, the
12 county sheriff and the sheriff's deputies, and the
13 police department of every city, ~~including-the-day-and~~
14 ~~night-marshal-of-any-city~~ and the department of
15 inspections and appeals, shall be supplementary aids
16 to the division of beer and liquor law enforcement.
17 Any neglect, misfeasance, or malfeasance shown by any
18 peace officer included in this section shall be
19 sufficient cause for the peace officer's removal as
20 provided by law. Nothing in this section shall be
21 construed to affect the duties and responsibilities of
22 any county attorney or peace officer with respect to
23 law enforcement."

24 2. Page 1, by striking lines 10 through 26 and
25 inserting the following:

26 "Sec. . Section 123.30, subsection 1,
27 unnumbered paragraph 2, Code Supplement 1987, is
28 amended to read as follows:

29 As a further condition for issuance of a liquor
30 control license or wine or beer permit, the applicant
31 must give consent to members of the fire, police and
32 health departments and the building inspector of
33 cities; the county sheriff, deputy sheriff, ~~and-state~~
34 agents members of the department of public safety,
35 representatives of the department of inspections and
36 appeals, and certified police officers, and any
37 official county health officer to enter upon areas of
38 the premises where alcoholic beverages are stored,
39 served, or sold, without a warrant during business
40 hours of the licensee or permittee to inspect for
41 violations of the provisions of this chapter or
42 ordinances and regulations that cities and boards of
43 supervisors may adopt. However, a subpoena issued
44 under section 421.17 or a warrant is required for
45 inspection of private records, a private business
46 office, or attached living quarters. Persons who are
47 not certified peace officers shall limit the scope of
48 their inspections of licensed premises to the
49 regulatory authority under which the inspection is
50 conducted. All persons who enter upon a licensed

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1 premise to conduct an inspection shall present
2 appropriate identification to the owner of the
3 establishment or the person who appears to be in
4 charge of the establishment prior to commencing an
5 inspection; however, this provision does not apply to
6 undercover criminal investigations conducted by peace
7 officers."

8 3. Page 2, by inserting after line 4 the
9 following:

10 "Sec. ____ . Section 123.33, Code 1987, is amended
11 to read as follows:

12 123.33 RECORDS.

13 Every holder of a liquor control license shall keep
14 a daily record of the gross receipts of the holder's
15 business. The records required and the premises of
16 the licensee shall be open to ~~agents of the division~~
17 ~~of beer and liquor law enforcement of the department~~
18 ~~of public safety inspection pursuant to section~~
19 123.30, subsection 1, during normal business hours of
20 the licensee."

21 4. Page 2, by inserting after line 44 the
22 following:

23 " ____ . Page 4, by inserting after line 31 the
24 following:

25 "Sec. ____ . Section 123.127, subsection 4, Code
26 1987, is amended to read as follows:

27 4. Gives consent to ~~members of the fire, police~~
28 ~~and health departments and the building inspector of~~
29 ~~cities; the county sheriff, deputy sheriff, and state~~
30 ~~agents, and any official county health officer person,~~
31 pursuant to section 123.30, subsection 1, to enter
32 upon the premises without a warrant during the
33 business hours of the permittee to inspect for
34 violations of the provisions of this chapter or
35 ordinances and regulations that local authorities may
36 adopt.

37 Sec. ____ . Section 123.128, subsection 4, Code
38 1987, is amended to read as follows:

39 4. Consents to inspection as required in section
40 ~~123.127~~ 123.30, subsection 4 1.

41 Sec. ____ . Section 123.129, subsection 4, Code
42 1987, is amended to read as follows:

43 4. Consents to inspection as required in section
44 ~~123.127~~ 123.30, subsection 4 1."

45 5. Page 2, by inserting after line 46 the
46 following:

47 " ____ . Page 5, by inserting after line 29 the
48 following:

49 "Sec. ____ . Section 123.138, Code 1987, is amended
50 to read as follows:

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Page 3

1 123.138 BOOKS OF ACCOUNT REQUIRED.

2 Each class "A" permittee shall keep proper books of
3 account and records showing the amount of beer sold by
4 the permittee, which books of account shall be at all
5 times open to inspection by the administrator and to
6 other persons pursuant to section 123.30, subsection
7 1. Each class "B" and class "C" permittee shall keep
8 proper books of account and records showing each
9 purchase of beer made by the permittee, and the date
10 and the amount of each purchase and the name of the
11 person from whom each purchase was made, which books
12 of account and records shall be open to inspection by
13 ~~the administrator and agents of the division of beer~~
14 ~~and liquor law enforcement of the department of public~~
15 ~~safety pursuant to section 123.30, subsection 1,~~
16 during normal business hours of the permittee."

17 6. Page 2, by striking line 49 and inserting the
18 following:

19 ""Sec. ____ . Section 123.175, Code 1987, is amended
20 by adding the following new subsection:

21 NEW SUBSECTION. 4. Consents to inspection as
22 required in section 123.30, subsection 1.

23 Sec. ____ . Section 123.176, Code 1987, is amended
24 by adding the following new subsection:

25 NEW SUBSECTION. 4. Consents to inspection as
26 required in section 123.30, subsection 1.

27 Sec. ____ . Section 123.177, subsection 1, Code".

28 7. Page 3, line 11, by striking the word "sold.""
29 and inserting the following: "sold."

30 Sec. ____ . Section 123.185, Code 1987, is amended
31 to read as follows:

32 123.185 RECORDS REQUIRED.

33 Each class "A" wine permittee shall keep books of
34 account and records showing each sale of wine, which
35 shall be at all times open to inspection by the
36 administrator and ~~agents of the division~~ pursuant to
37 section 123.30, subsection 1. Each class "B" wine
38 permittee shall keep proper books of account and
39 records showing each purchase of wine and the date and
40 the amount of each purchase and the name of the person
41 from whom each purchase was made, which shall be open
42 to inspection by ~~the administrator and agents of the~~
43 division pursuant to section 123.30, subsection 1,
44 during normal business hours of the permittee."

45 8. By renumbering as necessary.

By RENAUD of Polk

H-6334 FILED APRIL 8, 1988

ADOPTED (7.1641)

HOUSE FILE 393

H-6337

1 Amend amendment H-6334 to the Senate Amendment H-
2 6137, to House File 393 as amended, passed and
3 reprinted by the House, as follows:
4 1. Page 2, line 30, by inserting after the word
5 "officer" the word "a".

By VAN CAMP of Scott

H-6337 FILED APRIL 8, 1988
ADOPTED BY UNANIMOUS CONSENT (p. 1641)

HOUSE AMENDMENT TO
SENATE AMENDMENT TO
HOUSE FILE 393

S-5940

1 Amend the Senate Amendment H-6137 to House File 393
2 as amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, by inserting after line 3 the
5 following:

6 "_____. Page 1, by inserting after line 13 the
7 following:

8 "Sec. _____. Section 123.14, subsection 2, Code
9 1987, is amended to read as follows:

10 2. The other law enforcement divisions of the
11 department of public safety, the county attorney, the
12 county sheriff and the sheriff's deputies, and the
13 police department of every city, ~~including-the-day-and~~
14 ~~night-marshal-of-any-city~~ and the department of
15 inspections and appeals, shall be supplementary aids
16 to the division of beer and liquor law enforcement.
17 Any neglect, misfeasance, or malfeasance shown by any
18 peace officer included in this section shall be
19 sufficient cause for the peace officer's removal as
20 provided by law. Nothing in this section shall be
21 construed to affect the duties and responsibilities of
22 any county attorney or peace officer with respect to
23 law enforcement."

24 2. Page 1, by striking lines 10 through 26 and
25 inserting the following:

26 "Sec. _____. Section 123.30, subsection 1,
27 unnumbered paragraph 2, Code Supplement 1987, is
28 amended to read as follows:

29 As a further condition for issuance of a liquor
30 control license or wine or beer permit, the applicant
31 must give consent to members of the fire, police and
32 health departments and the building inspector of
33 cities; the county sheriff, deputy sheriff, and state
34 agents members of the department of public safety,
35 representatives of the department of inspections and
36 appeals, and certified police officers, and any
37 official county health officer to enter upon areas of
38 the premises where alcoholic beverages are stored,
39 served, or sold, without a warrant during business
40 hours of the licensee or permittee to inspect for
41 violations of the provisions of this chapter or
42 ordinances and regulations that cities and boards of
43 supervisors may adopt. However, a subpoena issued
44 under section 421.17 or a warrant is required for
45 inspection of private records, a private business
46 office, or attached living quarters. Persons who are
47 not certified peace officers shall limit the scope of
48 their inspections of licensed premises to the
49 regulatory authority under which the inspection is
50 conducted. All persons who enter upon a licensed

1 premise to conduct an inspection shall present
2 appropriate identification to the owner of the
3 establishment or the person who appears to be in
4 charge of the establishment prior to commencing an
5 inspection; however, this provision does not apply to
6 undercover criminal investigations conducted by peace
7 officers."

8 3. Page 2, by inserting after line 4 the
9 following:

10 "Sec. _____. Section 123.33, Code 1987, is amended
11 to read as follows:

12 123.33 RECORDS.

13 Every holder of a liquor control license shall keep
14 a daily record of the gross receipts of the holder's
15 business. The records required and the premises of
16 the licensee shall be open to ~~agents of the division~~
17 ~~of beer and liquor law enforcement of the department~~
18 ~~of public safety inspection pursuant to section~~
19 123.30, subsection 1, during normal business hours of
20 the licensee."

21 4. Page 2, by inserting after line 44 the
22 following:

23 "_____. Page 4, by inserting after line 31 the
24 following:

25 "Sec. _____. Section 123.127, subsection 4, Code
26 1987, is amended to read as follows:

27 4. Gives consent to ~~members of the fire, police~~
28 ~~and health departments and the building inspector of~~
29 ~~cities, the county sheriff, deputy sheriff, and state~~
30 ~~agents, and any official county health officer a~~
31 person, pursuant to section 123.30, subsection 1, to
32 enter upon the premises without a warrant during the
33 business hours of the permittee to inspect for
34 violations of the provisions of this chapter or
35 ordinances and regulations that local authorities may
36 adopt.

37 Sec. _____. Section 123.128, subsection 4, Code
38 1987, is amended to read as follows:

39 4. Consents to inspection as required in section
40 ~~123.127~~ 123.30, subsection 4 1.

41 Sec. _____. Section 123.129, subsection 4, Code
42 1987, is amended to read as follows:

43 4. Consents to inspection as required in section
44 ~~123.127~~ 123.30, subsection 4 1."

45 5. Page 2, by inserting after line 46 the
46 following:

47 "_____. Page 5, by inserting after line 29 the
48 following:

49 "Sec. _____. Section 123.138, Code 1987, is amended
50 to read as follows:

123.138 BOOKS OF ACCOUNT REQUIRED.

2 Each class "A" permittee shall keep proper books of
3 account and records showing the amount of beer sold by
4 the permittee, which books of account shall be at all
5 times open to inspection by the administrator and to
6 other persons pursuant to section 123.30, subsection
7 1. Each class "B" and class "C" permittee shall keep
8 proper books of account and records showing each
9 purchase of beer made by the permittee, and the date
10 and the amount of each purchase and the name of the
11 person from whom each purchase was made, which books
12 of account and records shall be open to inspection by
13 ~~the-administrator-and-agents-of-the-division-of-beer~~
14 ~~and-liquor-law-enforcement-of-the-department-of-public~~
15 ~~safety~~ pursuant to section 123.30, subsection 1,
16 during normal business hours of the permittee."

17 6. Page 2, by striking line 49 and inserting the
18 following:

19 "Sec. ____ . Section 123.175, Code 1987, is amended
20 by adding the following new subsection:

21 NEW SUBSECTION. 4. Consents to inspection as
22 required in section 123.30, subsection 1.

23 Sec. ____ . Section 123.176, Code 1987, is amended
24 by adding the following new subsection:

25 NEW SUBSECTION. 4. Consents to inspection as
26 required in section 123.30, subsection 1.

27 Sec. ____ . Section 123.177, subsection 1, Code".

28 7. Page 3, line 11, by striking the word "sold."
29 and inserting the following: "sold."

30 Sec. ____ . Section 123.185, Code 1987, is amended
31 to read as follows:

32 123.185 RECORDS REQUIRED.

33 Each class "A" wine permittee shall keep books of
34 account and records showing each sale of wine, which
35 shall be at all times open to inspection by the
36 administrator and ~~agents-of-the-division~~ pursuant to
37 section 123.30, subsection 1. Each class "B" wine
38 permittee shall keep proper books of account and
39 records showing each purchase of wine and the date and
40 the amount of each purchase and the name of the person
41 from whom each purchase was made, which shall be open
42 to inspection ~~by-the-administrator-and-agents-of-the~~
43 ~~division~~ pursuant to section 123.30, subsection 1,
44 during normal business hours of the permittee."

45 8. By renumbering as necessary.

S-5940

Filed April 12, 1988 ADOPTED

RECEIVED FROM THE HOUSE

Senate concurred (p. 1474)

HOUSE FILE 393

AN ACT

RELATING TO THE REGULATION OF THE SALE OF ALCOHOLIC BEVERAGES BY AMENDING THE DEFINITION OF LICENSED PREMISES, BY REQUIRING THE DIVISION OF ALCOHOLIC BEVERAGES TO PLACE ITS SYSTEM OF PURCHASE OF ALCOHOLIC LIQUOR ON A BAILMENT SYSTEM, BY PROVIDING FOR SERVICE OF NOTICE OF NONPAYMENT AND PENALTY BY THE DIVISION TO A CLASS "E" LICENSE BY CERTIFIED MAIL, BY LIMITING THE AREAS OF LICENSED PREMISES WHICH MAY BE SEARCHED WITHOUT A WARRANT, BY PROVIDING THAT SEPARATE LICENSED PREMISES, ONE UNDER A CLASS "E" LIQUOR CONTROL LICENSE AND THE OTHER UNDER ANOTHER RETAIL LIQUOR CONTROL LICENSE OR A RETAIL WINE OR BEER PERMIT, MAY SHARE A COMMON ENTRANCE, BY PROVIDING AN EXEMPTION TO THE LICENSING REQUIREMENTS FOR A CLASS "E" LIQUOR CONTROL LICENSE IN COUNTIES UNDER NINE THOUSAND FIVE HUNDRED IN POPULATION, BY PROVIDING FOR THE ASSESSMENT OF A CIVIL PENALTY IN LIEU OF A LICENSE SUSPENSION FOR AN OFFENSE BY A LICENSEE, BY ALLOWING A PERSON HOLDING A SPECIAL PERMIT FOR THE PURCHASE OF SACRAMENTAL WINE TO PURCHASE FROM A CLASS "A" WINE PERMITTEE, AND RELATING TO LIQUOR CONTROL LICENSES AND WINE AND BEER PERMITS BY PROVIDING FOR ADJUSTMENT OF FEES FOR CERTAIN BUSINESSES AND PERMITTEES AND BY REQUIRING ALL CLASS "A" WINE PERMIT PREMISES AND CLASS "A" BEER PERMIT PREMISES TO BE LOCATED WITHIN THE STATE.

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

Section 1. Section 123.3, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 36. "City" means a municipal corporation but not including a county, township, school district, or any special purpose district or authority.

NEW SUBSECTION. 37. "Unincorporated town" means a compactly populated area recognized as a distinct place with a

distinct place-name which is not itself incorporated or within the corporate limits of a city.

Sec. 2. Section 123.14, subsection 2, Code 1987, is amended to read as follows:

2. The other law enforcement divisions of the department of public safety, the county attorney, the county sheriff and the sheriff's deputies, and the police department of every city, ~~including-the-day-and-night-marshal-of-any-city and the~~ department of inspections and appeals, shall be supplementary aids to the division of beer and liquor law enforcement. Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section shall be sufficient cause for the peace officer's removal as provided by law. Nothing in this section shall be construed to affect the duties and responsibilities of any county attorney or peace officer with respect to law enforcement.

Sec. 3. Section 123.20, subsection 1, Code Supplement 1987, is amended to read as follows:

1. To purchase receive alcoholic liquors and wine on a bailment system for resale by the division in the manner set forth in this chapter.

Sec. 4. Section 123.22, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The division has the exclusive right of importation into the state of all forms of alcoholic liquor, except as otherwise provided in this chapter, and a person shall not import alcoholic liquor, except that an individual of legal age may import and have in the individual's possession an amount of alcoholic liquor not exceeding one quart or, in the case of alcoholic liquor personally obtained outside the United States, one gallon for personal consumption only in a private home or other private accommodation. No A distillery shall not sell alcoholic liquor within the state to any person but only to the division, except as otherwise provided in this chapter. This section vests in the division exclusive control within the state as purchaser of all alcoholic liquor sold by

distilleries within the state or imported, except beer and wine, and except as otherwise provided in this chapter. The division shall receive alcoholic liquor on a bailment system for resale by the division in the manner set forth in this chapter. The division shall act as the sole wholesaler of alcoholic liquor to class "E" liquor control licensees.

Sec. 5. Section 123.24, subsection 2, paragraph a, Code Supplement 1987, is amended to read as follows:

a. The division may accept from a class "E" liquor control licensee a cashier's check which shows the licensee is the remitter or a check issued by the licensee in payment of alcoholic liquor. If a check is subsequently dishonored, the division shall cause a notice of nonpayment and penalty to be served upon the class "E" liquor control licensee or upon any person in charge of the licensed premises. The notice shall state that if payment or satisfaction for the dishonored check is not made within ten days of the service of notice, the licensee's liquor control license shall be suspended under section 123.39. The notice of nonpayment and penalty shall be in a form prescribed by the administrator, and shall be served by a peace-officer sent by certified mail.

Sec. 6. Section 123.30, subsection 1, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

As a further condition for issuance of a liquor control license or wine or beer permit, the applicant must give consent to members of the fire, police and health departments and the building inspector of cities; the county sheriff, deputy sheriff, and state-agents members of the department of public safety, representatives of the department of inspections and appeals, and certified police officers, and any official county health officer to enter upon areas of the premises where alcoholic beverages are stored, served, or sold, without a warrant during business hours of the licensee or permittee to inspect for violations of the provisions of this chapter or ordinances and regulations that cities and boards of supervisors may adopt. However, a subpoena issued

under section 421.17 or a warrant is required for inspection of private records, a private business office, or attached living quarters. Persons who are not certified peace officers shall limit the scope of their inspections of licensed premises to the regulatory authority under which the inspection is conducted. All persons who enter upon a licensed premise to conduct an inspection shall present appropriate identification to the owner of the establishment or the person who appears to be in charge of the establishment prior to commencing an inspection; however, this provision does not apply to undercover criminal investigations conducted by peace officers.

Sec. 7. Section 123.30, subsection 3, paragraph e, Code Supplement 1987, is amended to read as follows:

e. CLASS "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

The division may issue a class "E" liquor control license for premises covered by a liquor control license or wine or beer permit for on-premise consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other application for a class "E" license has been made within the previous twelve consecutive months.

Sec. 8. Section 123.33, Code 1987, is amended to read as follows:

123.33 RECORDS.

Every holder of a liquor control license shall keep a daily record of the gross receipts of the holder's business. The records required and the premises of the licensee shall be open to ~~agents of the division of beer and liquor law enforcement of the department of public safety~~ inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee.

Sec. 9. Section 123.36, subsection 3, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Hotels and motels located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if a hotel or motel is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 10. Section 123.36, subsection 4, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the license fee which is the larger shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 11. Section 123.36, subsection 7, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed,

and in case there is doubt as to which of two or more differing corporate limits are the nearest, the license fee which is the larger shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 12. Section 123.39, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the cause for suspension is a first offense violation of section 123.49, subsection 2, paragraph "h", and the violation occurred on or after January 1, 1988, the administrator or local authority shall impose a civil penalty in the amount of three hundred dollars in lieu of suspension of the license or permit. Local authorities shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the local authority. The division shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the administrator of the division. If the matter is appealed to the division's hearing board, the hearing board shall not reduce the amount of the civil penalty imposed under this paragraph if a violation of section 123.49, subsection 2, paragraph "h" is found.

Sec. 13. Section 123.45, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages, wine, or beer, or any jobber representative, broker, employee, or agent of such person, shall not directly or indirectly supply, furnish, give, or pay for any furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of business of a licensee or permittee authorized under this chapter to sell at retail; nor shall the person directly or indirectly extend any credit for alcoholic beverages or beer or pay for any such license or permit, nor directly or indirectly be interested in

the ownership, conduct, or operation of the business of another licensee or permittee authorized under this chapter to sell at retail, nor hold a retail liquor control license or retail wine or beer permit, except that a person engaged in the business of manufacturing beer may sell beer at retail for consumption on or off the premises of the manufacturing facility and, notwithstanding any other provision of this chapter or the fact that such a person may be the holder of a class "A" beer permit, may be granted not more than one class "B" permit as defined in section 123.124 for such purpose. Any licensee or permittee who permits or assents to or is a party in any way to any such violation or infringement of this section is guilty of a violation of this section.

Sec. 14. Section 123.50, subsection 3, paragraph a, Code 1987, is amended to read as follows:

a. Upon a first conviction, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of fourteen days. However, if the conviction is for a violation of section 123.49, subsection 2, paragraph "h", which occurred on or after January 1, 1988, the violator's liquor control license or wine or beer permit shall not be suspended, but the violator shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under section 123.39 or this subsection will result in automatic suspension of the license or permit for a period of fourteen days.

Sec. 15. Section 123.124, Code 1987, is amended to read as follows:

123.124 PERMITS -- CLASSES.

Permits for the manufacture and sale, or sale of beer shall be divided into three classes, and shall be known as either class "A", "B", or "C" permits. A class "A" permit shall allow the holder to manufacture and sell beer at wholesale. The holder of a class "A" permit may manufacture beer of more than five percent of alcohol by weight for shipment outside this state only. However, a class "A" permit does not grant

authority to manufacture wine as defined in section 123.37 subsection 7. A class "B" permit shall allow the holder to sell beer at retail for consumption on or off the premises. A class "C" permit shall allow the holder to sell beer at retail for consumption off the premises.

Sec. 16. Section 123.127, subsection 4, Code 1987, is amended to read as follows:

4. Gives consent to members of the fire, police and health departments and the building inspector of cities, the county sheriff, deputy sheriff, and state agents, and any official county health officer a person, pursuant to section 123.30, subsection 1, to enter upon the premises without a warrant during the business hours of the permittee to inspect for violations of the provisions of this chapter or ordinances and regulations that local authorities may adopt.

Sec. 17. Section 123.128, subsection 4, Code 1987, is amended to read as follows:

4. Consents to inspection as required in section ~~123.127~~ 123.30, subsection 4 1.

Sec. 18. Section 123.129, subsection 4, Code 1987, is amended to read as follows:

4. Consents to inspection as required in section ~~123.127~~ 123.30, subsection 4 1.

Sec. 19. Section 123.130, Code 1987, is amended to read as follows:

123.130 AUTHORITY UNDER CLASS "A" PERMIT.

Any person holding a class "A" permit issued by the division shall be authorized to manufacture and sell, or sell at wholesale, beer for consumption off the premises, such sales within the state to be made only to persons holding subsisting class "A", "B" or "C" permits, or liquor control licenses issued in accordance with the provisions of this chapter. The holder of a class "A" permit may manufacture beer of more than five percent alcohol by weight for shipment outside this state only. However, a class "A" permit does not grant authority to manufacture wine as defined in section 123.37, subsection 7.

All class "A" premises shall be located within the state. All beer received by the holder of a class "A" permit from the holder of a certificate of compliance before being resold must first come to rest on the premises licensed by the class "A" permit holder, must be inventoried, and is subject to the barrel tax when resold as provided in section 123.136. A class "A" permittee shall not store beer overnight except on premises licensed under a class "A" permit.

Sec. 20. Section 123.134, subsection 2, paragraph d, Code Supplement 1987, is amended to read as follows:

d. For premises located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be operated under the permit, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the permit fee which is the largest shall prevail. However, if the premises are located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 21. Section 123.138, Code 1987, is amended to read as follows:

123.138 BOOKS OF ACCOUNT REQUIRED.

Each class "A" permittee shall keep proper books of account and records showing the amount of beer sold by the permittee, which books of account shall be at all times open to inspection by the administrator and to other persons pursuant to section 123.30, subsection 1. Each class "B" and class "C" permittee shall keep proper books of account and records showing each purchase of beer made by the permittee, and the date and the amount of each purchase and the name of the person from whom each purchase was made, which books of account and records shall be open to inspection ~~by the administrator and agents of the division of beer and liquor law enforcement of the department of public safety pursuant to section 123.30, subsection 1,~~ during normal business hours of the permittee.

Sec. 22. Section 123.173, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine as defined in section 123.3, subsection 7. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight for shipment outside this state ~~or for sale to the division.~~ All class "A" premises shall be located within the state. A class "B" wine permit allows the holder to sell wine at retail for consumption off the premises.

Sec. 23. Section 123.175, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Consents to inspection as required in section 123.30, subsection 1.

Sec. 24. Section 123.176, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Consents to inspection as required in section 123.30, subsection 1.

Sec. 25. Section 123.177, subsection 1, Code 1987, is amended to read as follows:

1. A person holding a class "A" wine permit may manufacture and sell, or sell at wholesale, wine for consumption off the premises. Sales within the state may be made only ~~to the division or to persons holding a class "A" or "B" wine permit,~~ and to persons holding a class "A", "B", "C" or "D" liquor control license, and to persons holding a special permit issued under section 123.29, subsection 3. A class "A" wine permittee having more than one place of business shall obtain a separate permit for each place of business where wine is to be stored, warehoused, or sold.

Sec. 26. Section 123.185, Code 1987, is amended to read as follows:

123.185 RECORDS REQUIRED.

Each class "A" wine permittee shall keep books of account and records showing each sale of wine, which shall be at all

times open to inspection by the administrator and ~~agents-of~~
~~the-division~~ pursuant to section 123.30, subsection 1. Each
class "B" wine permittee shall keep proper books of account
and records showing each purchase of wine and the date and the
amount of each purchase and the name of the person from whom
each purchase was made, which shall be open to inspection by
~~the-administrator-and-agents-of-the-division~~ pursuant to
section 123.30, subsection 1, during normal business hours of
the permittee.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 393, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 13, 1988

TERRY E. BRANSTAD
Governor