

Gen. ways & means
DO pass per amend 4-25-89 (p.1667)

APR 7 1989

HOUSE FILE 758

WAYS & MEANS CALENDAR

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 500)

Passed House, Date 4-20-89 (p.1657) Passed Senate, Date 5-3-89 (p.1861)

Vote: Ayes 83 Nays 10 Vote: Ayes 46 Nays 3

Approved May 29, 1989

Motion to Reconsider 4-18-89 (p.1687) - withdrawn
4-20-89 (p.1753)

A BILL FOR senate -
MOTION TO RECONSIDER 5-3-89 (p.1878)

3906-

1 An Act permitting forfeiture of the penal bond when a class "E"
2 liquor licensee violates the bootlegging law; permitting
3 claims against penal bonds for failure or refusal to pay an
4 alcoholic beverage control tax when due, establishing an
5 administrative appeals process for disputed tax assessments,
6 permitting the administrator to compromise disputed tax
7 assessments, and permitting imposition of civil penalties on
8 wholesalers for violations of law and administrative rules;
9 and relating to coupons or rebates as incentives to purchase
10 wine.

Motion
prevailed

HF 758

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

Repassed Senate 5/6/89 (p.2023)

50-0

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1 Section 1. Section 123.37, Code 1989, is amended by adding
2 the following new unnumbered paragraphs:

3 NEW UNNUMBERED PARAGRAPH. The administrator may compromise
4 and settle doubtful and disputed claims for taxes imposed
5 under this chapter or for taxes of doubtful collectibility,
6 notwithstanding section 19.9. The administrator may enter
7 into informal settlements pursuant to section 17A.10 to
8 compromise and settle doubtful and disputed claims for taxes
9 imposed under this chapter. The administrator may make a
10 claim under a licensee's or permittee's penal bond for taxes
11 of doubtful collectibility. Whenever a compromise or
12 settlement is made, the administrator shall make a complete
13 record of the case showing the tax assessed, reports and
14 audits, if any, the licensee's or permittee's grounds for
15 dispute or contest, together with all evidence of the dispute
16 or contest, and the amounts, conditions, and settlement or
17 compromise of the dispute or contest.

18 NEW UNNUMBERED PARAGRAPH. A licensee or permittee who
19 disputes the amount of tax imposed must pay all tax and
20 penalty pertaining to the disputed tax liability prior to
21 appealing the disputed tax liability to the administrator.

22 NEW UNNUMBERED PARAGRAPH. The administrator shall adopt
23 rules establishing procedures for payment of disputed taxes
24 imposed under this chapter. If it is determined that the tax
25 is not due in whole or in part, the division shall promptly
26 refund the part of the tax payment which is determined not to
27 be due.

28 NEW UNNUMBERED PARAGRAPH. Any party aggrieved by a
29 decision of the administrator under this section may appeal
30 the decision to the division's hearing board.

31 Sec. 2. Section 123.50, Code 1989, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 5. In addition to any other penalties
34 imposed under this chapter, the division shall assess a civil
35 penalty up to the amount of five thousand dollars upon a class

1 "E" liquor control licensee when the class "E" liquor license
2 is revoked for a violation of section 123.59. Failure to pay
3 the civil penalty as required under this subsection shall
4 result in forfeiture of the bond to the division.

5 Sec. 3. Section 123.135, subsection 5, Code 1989, is
6 amended to read as follows:

7 5. Notwithstanding any other penalties provided by this
8 chapter, any holder of a certificate of compliance or any
9 class "A" permit holder who ~~shall violate any of the~~
10 provisions of violates this section shall be chapter or the
11 rules adopted pursuant to this chapter is subject to a civil
12 fine not to exceed one thousand dollars or suspension of the
13 holder's certificate or permit for a period not to exceed one
14 year, or both such civil fine and suspension. Civil fines
15 imposed under this section shall be collected and retained by
16 the division.

17 Sec. 4. Section 123.180, subsection 6, Code 1989, is
18 amended to read as follows:

19 6. Regardless of any other penalties provided by this
20 chapter, any holder of a certificate of compliance relating to
21 wine, or a class "A" or-retail-wine permittee or-retail-liquor
22 licensee, who violates ~~any of the provisions of~~ this section
23 chapter or the rules adopted pursuant to this chapter is
24 subject to a civil fine not to exceed one thousand dollars or
25 subject to suspension of the certificate of compliance,
26 license, or permit for a period not to exceed thirty-days one
27 year, or to both civil fine and suspension. Civil fines
28 imposed under this section shall be collected and retained by
29 the division.

30 Sec. 5. Section 123.181, subsection 3, Code 1989, is
31 amended by striking the subsection.

32 EXPLANATION

33 This bill allows the administrator to compromise and settle
34 disputed tax claims imposed under chapter 123, allows the
35 administrator to make a claim under the penal bond posted by

1 beer and wine wholesalers when it is doubtful the division
2 will collect tax due, and establishes an administrative
3 appeals process for disputed tax liability.

4 This bill requires the penal bond posted by class "E"
5 liquor control licensees to be forfeited to the alcoholic
6 beverages division of the department of commerce if the
7 licensee's license is revoked for violation of the state's
8 bootlegging law.

9 The bill also permits the imposition of civil fines on beer
10 and wine wholesalers for violations of chapter 123. The fines
11 shall be retained by the alcoholic beverages division of the
12 department of commerce.

13 This bill strikes the Code provision prohibiting a holder
14 of a vintner's certificate of compliance or a holder of a
15 class "A" wine permit from offering coupons or rebates as
16 incentives to purchase wine.

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HOUSE FILE 758

S-4117

1 Amend House File 758, as passed by the House, as
2 follows:

3 1. Page 1, by inserting after line 30, the
4 following:

5 "Sec. ____ . Section 123.47, Code 1989, is amended
6 by adding the following new unnumbered paragraph:
7 NEW UNNUMBERED PARAGRAPH. This section shall be
8 construed to find the consumption of alcoholic liquor,
9 wine, or beer rather than the serving of alcoholic
10 liquor, wine, or beer as the proximate cause of injury
11 inflicted upon another by a minor.

12 Sec. ____ . Section 123.47A, Code 1989, is amended
13 by adding the following new unnumbered paragraph:
14 NEW UNNUMBERED PARAGRAPH. This section shall be
15 construed to find the consumption of alcoholic liquor,
16 wine, or beer rather than the serving of alcoholic
17 liquor, wine, or beer as the proximate cause of injury
18 inflicted upon another by a person age nineteen or
19 twenty."

20 2. By renumbering as necessary.

By TOM MANN, JR.

S-4117 FILED MAY 4, 1989

Revised no german 5/6 (p. 2023)

HOUSE FILE 758

S-3906

1 Amend House File 758, as passed by the House, as
2 follows:

- 3 1. Page 2, by striking lines 30 and 31.
- 4 2. Title page, line 8, by striking the word
- 5 "rules;" and inserting the following: "rules."
- 6 3. Title page, by striking lines 9 and 10.

By COMMITTEE ON WAYS AND MEANS
WILLIAM W. DIELEMAN, Chairperson

S-3906 FILED APRIL 25, 1989

*adopted 5-3-89 (p. 1860) - motion to reconsider
lost 5/6 (p. 2023) HOUSE FILE 758 5-4-89 (p. 1901) - motion
prevailed*

S-4105

1 Amend House File 758 as follows:

2 1. Page 2, by inserting after line 16 the
3 following:

4 "Sec. ____ Section 123.180, subsection 2, Code
5 1989, is amended by striking the subsection."

6 2. Page 2, by inserting after line 29 the
7 following:

8 "Sec. ____ Section 123.180, Code 1989, is amended
9 by adding the following new subsection:

10 NEW SUBSECTION. 7. The holder of a vintner's
11 certificate of compliance must offer wine for sale on
12 an equal basis to all holders of class "A" wine
13 permits. A sale based on an agreement or a condition,
14 express or implied, which restricts the holder of a
15 class "A" wine permit with respect to customers,
16 geographic areas of distribution, or resale price, or
17 restrains the holder of a class "A" wine permit from
18 competing in trade or commerce is prohibited. The
19 division shall adopt rules to implement this
20 subsection."

21 3. By renumbering as necessary.

By JOE J. WELSH

RICHARD V. RUNNING

BOB CARR

JIM LIND

JACK NYSTROM

WALLY E. HORN

RICHARD VARN

MICHAEL E. GRONSTAL

S-4105 FILED MAY 4, 1989

w/tx 5/6 (p. 2023)

HOUSE FILE 758

AN ACT

PERMITTING FORFEITURE OF THE PENAL BOND WHEN A CLASS "E" LIQUOR LICENSEE VIOLATES THE BOOTLEGGING LAW; PERMITTING CLAIMS AGAINST PENAL BONDS FOR FAILURE OR REFUSAL TO PAY AN ALCOHOLIC BEVERAGE CONTROL TAX WHEN DUE, ESTABLISHING AN ADMINISTRATIVE APPEALS PROCESS FOR DISPUTED TAX ASSESSMENTS, PERMITTING THE ADMINISTRATOR TO COMPROMISE DISPUTED TAX ASSESSMENTS, AND PERMITTING IMPOSITION OF CIVIL PENALTIES ON WHOLESALERS FOR VIOLATIONS OF LAW AND ADMINISTRATIVE RULES; AND RELATING TO COUPONS OR REBATES AS INCENTIVES TO PURCHASE WINE.

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

Section 1. Section 123.37, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The administrator may compromise and settle doubtful and disputed claims for taxes imposed under this chapter or for taxes of doubtful collectibility, notwithstanding section 19.9. The administrator may enter into informal settlements pursuant to section 17A.10 to compromise and settle doubtful and disputed claims for taxes imposed under this chapter. The administrator may make a claim under a licensee's or permittee's penal bond for taxes of doubtful collectibility. Whenever a compromise or settlement is made, the administrator shall make a complete record of the case showing the tax assessed, reports and audits, if any, the licensee's or permittee's grounds for dispute or contest, together with all evidence of the dispute or contest, and the amounts, conditions, and settlement or compromise of the dispute or contest.

NEW UNNUMBERED PARAGRAPH. A licensee or permittee who disputes the amount of tax imposed must pay all tax and penalty pertaining to the disputed tax liability prior to

appealing the disputed tax liability to the administrator.

NEW UNNUMBERED PARAGRAPH. The administrator shall adopt rules establishing procedures for payment of disputed taxes imposed under this chapter. If it is determined that the tax is not due in whole or in part, the division shall promptly refund the part of the tax payment which is determined not to be due.

NEW UNNUMBERED PARAGRAPH. Any party aggrieved by a decision of the administrator under this section may appeal the decision to the division's hearing board.

Sec. 2. Section 123.50, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. In addition to any other penalties imposed under this chapter, the division shall assess a civil penalty up to the amount of five thousand dollars upon a class "E" liquor control licensee when the class "E" liquor license is revoked for a violation of section 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division.

Sec. 3. Section 123.135, subsection 5, Code 1989, is amended to read as follows:

5. Notwithstanding any other penalties provided by this chapter, any holder of a certificate of compliance or any class "A" permit holder who ~~shall violate any of the provisions of~~ violates this section shall be chapter or the rules adopted pursuant to this chapter is subject to a civil fine not to exceed one thousand dollars or suspension of the holder's certificate or permit for a period not to exceed one year, or both such civil fine and suspension. Civil fines imposed under this section shall be collected and retained by the division.

Sec. 4. Section 123.180, subsection 6, Code 1989, is amended to read as follows:

6. Regardless of any other penalties provided by this chapter, any holder of a certificate of compliance relating to wine, or a class "A" or-retail-wine permittee ~~or-retail-liquor~~

licensee, who violates any-of-the-provisions-of this section chapter or the rules adopted pursuant to this chapter is subject to a civil fine not to exceed one thousand dollars or subject to suspension of the certificate of compliance, license, or permit for a period not to exceed thirty-days one year, or to both civil fine and suspension. Civil fines imposed under this section shall be collected and retained by the division.

Sec. 5. Section 123.181, subsection 3, Code 1989, is amended by striking the subsection.

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 758, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 29, 1989

TERRY E. BRANSTAD
Governor