

(P. 375) 2/22/94 State Gov.
(P. 466) 3/2/94 Do Pass

FEB 3 1994

HOUSE FILE 2115

BY COMMITTEE ON STATE GOVERNMENT

Place On Calendar

(SUCCESSOR TO HSB 541)

(P. 305)
Passed House, Date 2-17-94

(P. 751)
Passed Senate, Date 3-21-94

Vote: Ayes 91 Nays 6

Vote: Ayes 48 Nays 0

Approved March 28, 1994

A BILL FOR

1 An Act relating to the regulation of alcoholic beverages
2 licensees and permittees, by providing for the imposition,
3 suspension, and revocation of civil penalties, by establishing
4 a broker's permit and annual fee, by eliminating the alcoholic
5 liquor wholesaler license and bond, by prohibiting certain
6 gifts of liquor, by making other properly related amendments,
7 and subjecting violators to existing penalties.

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

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HF 2115

1 Section 1. Section 123.3, Code Supplement 1993, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 8A. "Broker" means a person who
4 represents or promotes alcoholic liquor within the state on
5 behalf of the holder of a distiller's certificate of
6 compliance through an agreement with the distiller, and whose
7 name is disclosed on a distiller's current certificate of
8 compliance as its representative in the state. An employee of
9 the holder of a distiller's certificate of compliance is not a
10 broker.

11 Sec. 2. Section 123.39, subsection 1, paragraph a, Code
12 Supplement 1993, is amended to read as follows:

13 1. a. The administrator or the local authority may
14 suspend a ~~liquor-control~~ license, ~~wine-permit~~, or beer permit
15 issued pursuant to the chapter for a period not to exceed one
16 year, revoke the license or permit, or impose a civil penalty
17 not to exceed one thousand dollars per violation. Before
18 suspension, revocation, or imposition of a civil penalty, the
19 licensee license or permit holder shall be given written
20 notice and an opportunity for a hearing. The administrator
21 may appoint a member of the division or may request an
22 administrative law judge from the department of inspections
23 and appeals to conduct the hearing and issue a proposed
24 decision. Upon the motion of a party to the hearing or upon
25 the administrator's own motion, the administrator may review
26 the proposed decision in accordance with chapter 17A. Upon
27 review of the proposed decision, the administrator may affirm,
28 reverse, or modify the proposed decision. A ~~liquor-control~~
29 ~~licensee~~, ~~wine~~, or beer permittee aggrieved by a decision of
30 the administrator may seek judicial review of the
31 administrator's decision in accordance with chapter 17A.

32 Sec. 3. Section 123.42, Code 1993, is amended by striking
33 the section and inserting in lieu thereof the following:

34 123.42 BROKER'S PERMIT.

35 1. Prior to representing or promoting a distiller's

1 alcoholic liquor products in the state, the broker shall make
2 application to the administrator on forms provided by the
3 division for a broker's permit. The administrator may in
4 accordance with this chapter issue a broker's permit which
5 shall be valid for one year from the date of issuance unless
6 it is sooner suspended or revoked for a violation of this
7 chapter. A broker's permit is valid throughout the state, and
8 a broker who represents more than one distiller is required to
9 obtain only one broker's permit.

10 2. The annual fee for a broker's permit is twenty-five
11 dollars.

12 3. An employee of a broker is not required to apply for or
13 hold a broker's permit.

14 4. The holder of a distiller's certificate of compliance
15 is not required to appoint a broker to represent its alcoholic
16 liquor products in the state. If the holder of a distiller's
17 certificate of compliance appoints a broker to represent its
18 alcoholic liquor products in the state, the name and address
19 of the broker shall be disclosed on the distiller's
20 application for a certificate of compliance, and the
21 requirements in this section shall apply to the appointed
22 broker.

23 Sec. 4. Section 123.43, Code 1993, is amended to read as
24 follows:

25 123.43 CONDITIONS -- BOND.

26 As a condition precedent to the approval and granting of
27 any a license to a manufacturer or-wholesaler, there the
28 applicant for a manufacturer's license shall be-fried-with-the
29 division file a statement under oath with the division that
30 the applicant is a bona fide manufacturer ~~or-wholesaler~~ of
31 alcoholic liquors, and that the applicant will faithfully
32 observe and comply with all laws, rules and regulations of-the
33 ~~division-and-that-the-applicant-will-in-all-respects-comply~~
34 ~~with-the-provisions-of-this-chapter,-together-with-a-bond-in~~
35 ~~the-penal-sum-of-five-thousand-dollars-for-a-manufacturer-and~~

1 ~~one-thousand-dollars-for-a-wholesaler-with-a-surety-to-be~~
2 ~~approved-by-the-administrator;-said-bond-to-be-in-favor-of-the~~
3 ~~state-of-Iowa-for-the-benefit-of-the-state-in-case-of-any~~
4 ~~violation-of-this-chapter governing the manufacture and sale~~
5 of alcoholic liquor. An applicant for a manufacturer's
6 license shall post a bond in the penal sum of five thousand
7 dollars with surety approved by the administrator. The bond
8 may be forfeited to the state for a violation of the chapter.

9 Sec. 5. Section 123.44, Code 1993, is amended to read as
10 follows:

11 123.44 GIFT OF LIQUORS PROHIBITED.

12 A manufacturer or ~~wholesaler~~ broker shall not give away any
13 alcoholic liquor ~~of-any-kind-or-description~~ at any time in
14 connection with the manufacturer's or ~~wholesaler's~~ broker's
15 business except for testing or sampling purposes only. A
16 manufacturer, vintner, broker, wholesaler, or importer,
17 organized as a corporation pursuant to the laws of this state
18 or any other state, who deals in alcoholic liquor, wine, or
19 beer subject to regulation under this chapter shall not offer
20 or give anything of value to ~~any a~~ a commission member, official
21 or employee of the division, or directly or indirectly
22 contribute in any manner any money or thing of value to ~~any a~~
23 a person seeking a public or appointive office or ~~any a~~
24 a recognized political party or a group of persons seeking to
25 become a recognized political party.

26 Sec. 6. Section 123.124, Code 1993, is amended to read as
27 follows:

28 123.124 PERMITS -- CLASSES.

29 Permits for the manufacture and sale, or sale of beer shall
30 be divided into four classes, known as class "A", special
31 class "A", class "B", or class "C" permits. A class "A"
32 permit allows the holder to manufacture and sell beer at
33 wholesale. A holder of a special class "A" permit may only
34 manufacture beer to be consumed on the licensed premises for
35 which the person also holds a class "C" liquor control license

1 or class "B" beer permit and to be sold to a class "A"
2 permittee for resale purposes. A class "B" permit allows the
3 holder to sell beer to consumers at retail for consumption on
4 or off the premises. A class "C" permit allows the holder to
5 sell beer to consumers at retail for consumption off the
6 premises.

7 Sec. 7. Section 123.132, Code 1993, is amended to read as
8 follows:

9 123.132 AUTHORITY UNDER CLASS "C" PERMIT.

10 ~~Any-person-holding~~ The holder of a class "C" permit shall
11 be allowed to sell beer to consumers at retail for consumption
12 off the premises. Such The sales made pursuant to this
13 section shall be made in original containers only. The holder
14 of a class "C" permit or the permittee's agents or employees
15 shall not sell beer to other retail license or permit holders
16 knowing or having reasonable cause to believe that the beer
17 will be resold in another licensed establishment.

18 EXPLANATION

19 This bill defines a broker relating to the promotion of
20 alcoholic liquors, provides for an annual license and bond,
21 and provides penalties for violations.

22 Section 1 defines a broker as a person who represents or
23 promotes the alcoholic liquor of a distiller within the state.

24 Section 2 authorizes the administrator of the alcoholic
25 beverages division of the department of commerce to suspend,
26 revoke, or impose a civil penalty of not to exceed \$1,000 for
27 liquor law violations by a broker.

28 Section 3 eliminates the alcoholic liquor wholesaler
29 license and establishes a permit for alcoholic liquor brokers.
30 An annual fee of \$25 is also set.

31 Section 4 eliminates the penal bond for alcoholic liquor
32 wholesalers' licenses and makes other changes relating to the
33 bond for manufacturers.

34 Section 5 prohibits a broker from giving gifts of liquor in
35 conjunction with the broker's business except for testing and

1 sampling purposes and prohibits giving gifts to commission
2 members, officials, or employees of the alcoholic beverages
3 division.

4 Section 6 specifies directly that the privilege of class
5 "B" and class "C" beer permits includes retail sales made to
6 consumers only.

7 Section 7 prohibits a class "C" beer permittee or its
8 employees from making sales of beer to other retail license or
9 permit holders knowing or having reason to know that the beer
10 will be resold in another licensed establishment.

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*E. H. Usher
Kendley
Peterson
Reinard*

HSB 541

STATE GOVERNMENT

SENATE/HOUSE FILE 2115
BY (PROPOSED DEPARTMENT OF
COMMERCE/ALCOHOLIC
BEVERAGES DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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23 and appeals to conduct the hearing and issue a proposed
24 decision. Upon the motion of a party to the hearing or upon
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33 ~~division-and-that-the-applicant-will-in-all-respects-comply~~
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17 organized as a corporation pursuant to the laws of this state
18 or any other state, who deals in alcoholic liquor, wine, or
19 beer subject to regulation under this chapter shall not offer
20 or give anything of value to any a commission member, official
21 or employee of the division, or directly or indirectly
22 contribute in any manner any money or thing of value to any a
23 person seeking a public or appointive office or any a
24 recognized political party or a group of persons seeking to
25 become a recognized political party.

26 Sec. 6. Section 123.124, Code 1993, is amended to read as
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32 permit allows the holder to manufacture and sell beer at
33 wholesale. A holder of a special class "A" permit may only
34 manufacture beer to be consumed on the licensed premises for
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1 or class "B" beer permit and to be sold to a class "A"
2 permittee for resale purposes. A class "B" permit allows the
3 holder to sell beer to consumers at retail for consumption on
4 or off the premises. A class "C" permit allows the holder to
5 sell beer to consumers at retail for consumption off the
6 premises.

7 Sec. 7. Section 123.132, Code 1993, is amended to read as
8 follows:

9 123.132 AUTHORITY UNDER CLASS "C" PERMIT.

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27 liquor law violations by a broker.

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29 license and establishes a permit for alcoholic liquor brokers.
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35 conjunction with the broker's business except for testing and

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3 division.

4 Section 6 specifies directly that the privilege of class
5 "B" and class "C" beer permits includes retail sales made to
6 consumers only.

7 Section 7 prohibits a class "C" beer permittee or its
8 employees from making sales of beer to other retail license or
9 permit holders knowing or having reason to know that the beer
10 will be resold in another licensed establishment.

11 BACKGROUND STATEMENT
12 SUBMITTED BY THE AGENCY

13 Broker's Permits: The alcoholic beverages division of the
14 department of commerce has regulatory authority for the entire
15 alcoholic beverages industry. However, one segment of the
16 industry, alcoholic liquor brokers, have not been licensed
17 previously. Under the current law, the division's only
18 recourse is to seek criminal or administrative sanctions
19 against a distiller's certificate of compliance if a broker
20 representing the distiller violates Iowa law or regulation.
21 Brokers have requested to be separately licensed and held
22 accountable for their actions. The division believes that
23 licensing brokers is in the best interests of the alcoholic
24 beverages industry.

25 The proposed annual fee for a broker's permit is \$25.
26 Under the proposed legislation, brokers' permits may be
27 suspended, revoked, or a civil penalty imposed not to exceed
28 \$1,000 for violations of chapter 123.

29 Elimination of Alcoholic Liquor Wholesaler License and
30 Penal Bond: The alcoholic beverages division is the sole
31 wholesaler of alcoholic liquor in the state. The division has
32 never issued an alcoholic liquor wholesaler license. The
33 privileges under an alcoholic liquor wholesaler license are
34 the same as those under a distiller's certificate of
35 compliance. The alcoholic liquor wholesaler license is

1 redundant and unnecessary and should be eliminated. (This
2 proposed legislation does not impact the issuance of beer or
3 wine wholesaler permits.)

4 Clarification of Privileges under Class "B" and Class "C"

5 Beer Permits: Class "B" (on premises) beer permits and Class
6 "C" (off premises) beer permits are retail permits. Recently,
7 the division investigated several retail establishments and
8 discovered that certain retail permit holders are purchasing
9 significant quantities of beer to be used for resale purposes
10 from other retail beer permit holders. Retail beer permit
11 holders are required to purchase beer from beer wholesalers
12 (class "A" permit holders). The proposed legislation
13 clarifies the current law which requires retail beer
14 permittees to purchase beer from beer wholesalers, and
15 prohibits retail beer permittees from knowingly selling beer
16 to other retail beer permittees for resale purposes.

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HOUSE FILE 2115

AN ACT

AN ACT RELATING TO THE REGULATION OF ALCOHOLIC BEVERAGES
LICENSEES AND PERMITTEES, BY PROVIDING FOR THE IMPOSITION,
SUSPENSION, AND REVOCATION OF CIVIL PENALTIES, BY ESTABLISHING
A BROKER'S PERMIT AND ANNUAL FEE, BY ELIMINATING THE ALCOHOLIC
LIQUOR WHOLESALER LICENSE AND BOND, BY PROHIBITING CERTAIN
GIFTS OF LIQUOR, BY MAKING OTHER PROPERLY RELATED AMENDMENTS,
AND SUBJECTING VIOLATORS TO EXISTING PENALTIES.

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

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by adding the following new subsection:

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behalf of the holder of a distiller's certificate of
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year, revoke the license or permit, or impose a civil penalty
not to exceed one thousand dollars per violation. Before
suspension, revocation, or imposition of a civil penalty, the
~~licensee~~ license or permit holder shall be given written
notice and an opportunity for a hearing. The administrator
may appoint a member of the division or may request an
administrative law judge from the department of inspections
and appeals to conduct the hearing and issue a proposed
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the section and inserting in lieu thereof the following:

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application to the administrator on forms provided by the
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Sec. 4. Section 123.43, Code 1993, is amended to read as follows:

123.43 CONDITIONS -- BOND.

As a condition precedent to the approval and granting of any a license to a manufacturer or wholesaler, there the applicant for a manufacturer's license shall be filed with the division file a statement under oath with the division that the applicant is a bona fide manufacturer or wholesaler of alcoholic liquors, and that the applicant will faithfully observe and comply with all laws, rules and regulations of the division and that the applicant will in all respects comply with the provisions of this chapter, together with a bond in the penal sum of five thousand dollars for a manufacturer and one thousand dollars for a wholesaler with a surety to be approved by the administrator; said bond to be in favor of the state of Iowa for the benefit of the state in case of any violation of this chapter governing the manufacture and sale of alcoholic liquor. An applicant for a manufacturer's license shall post a bond in the penal sum of five thousand dollars with surety approved by the administrator. The bond may be forfeited to the state for a violation of the chapter.

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manufacturer, vintner, broker, wholesaler, or importer, organized as a corporation pursuant to the laws of this state or any other state, who deals in alcoholic liquor, wine, or beer subject to regulation under this chapter shall not offer or give anything of value to any a commission member, official or employee of the division, or directly or indirectly contribute in any manner any money or thing of value to any a person seeking a public or appointive office or any a recognized political party or a group of persons seeking to become a recognized political party.

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Sec. 7. Section 123.132, Code 1993, is amended to read as follows:

123.132 AUTHORITY UNDER CLASS "C" PERMIT.

Any person holding The holder of a class "C" permit shall be allowed to sell beer to consumers at retail for consumption off the premises. Such The sales made pursuant to this section shall be made in original containers only. The holder of a class "C" permit or the permittee's agents or employees shall not sell beer to other retail license or permit holders

knowing or having reasonable cause to believe that the beer
will be resold in another licensed establishment.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 2115, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved March 28, 1994

TERRY E. BRANSTAD
Governor