

*See Bill copy*

MAR 24 1993

HOUSE FILE 633  
BY COMMITTEE ON STATE GOVERNMENT

Place On Calendar

(SUCCESSOR TO HF 517)

Passed House, Date 4/2/93 <sup>(P.1030)</sup> Passed Senate, Date \_\_\_\_\_  
Vote: Ayes 97 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved May 3, 1993

**A BILL FOR**

1 An Act relating to the approval, disapproval, suspension, or  
2 revocation of liquor control licenses, wine permits, or beer  
3 permits, the imposition of civil penalties, and the appeal of  
4 the actions of local authorities or the administrator of the  
5 alcoholic beverages division regarding liquor control  
6 licenses, wine permits, and beer permits, and providing for  
7 other properly related matters.

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

HOUSE FILE 633

H-3581

- 1 Amend House File 633 to read as follows:
- 2 1. Page 2, by striking line 20, and inserting the
- 3 following: "affirm, reverse, or modify the proposed
- 4 decision to approve or".
- 5 2. Page 3, line 18, by inserting after the word
- 6 "or" the following: "may request".
- 7 3. Page 3, by striking line 22 and inserting the
- 8 following: "The administrator may affirm, reverse, or
- 9 modify the proposed decision."
- 10 4. Page 4, line 4, by inserting after the word
- 11 "or" the following: "may request".
- 12 5. Page 4, line 27, by inserting after the word
- 13 "or" the following: "may request".

By ERTL of Dubuque

H-3581 FILED MARCH 30, 1993

*(P.1030) adopted 4-2-93*

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*HF 633*

1 Section 1. Section 123.19, subsection 4, Code 1993, is  
2 amended to read as follows:

3 4. Any violation of the requirements of this section,  
4 except subsection 3, shall subject the violator to the general  
5 penalties provided in this chapter and in addition thereto  
6 ~~shall be to the general penalties,~~ is grounds for suspension  
7 or revocation of the certificate of compliance, after notice  
8 and hearing before the ~~division-hearing-board~~ administrator.  
9 Willful failure to comply with requirements which may be  
10 imposed under subsection 3 ~~shall be~~ is grounds for suspension  
11 or revocation of the certificate of compliance only.

12 ~~Decisions of the hearing board concerning such suspension or~~  
13 ~~revocation shall be binding upon all parties.~~

14 Sec. 2. Section 123.32, subsections 2, 4, and 6, Code  
15 1993, are amended to read as follows:

16 2. ACTION BY LOCAL AUTHORITIES. The local authority shall  
17 either approve or disapprove the issuance of a liquor control  
18 license, retail wine permit, or retail beer permit, shall  
19 endorse its approval or disapproval on the application and  
20 shall forward the application along with the necessary fee and  
21 bond, if required, to the division. ~~Upon the initial~~  
22 ~~application for a liquor control license, retail wine permit,~~  
23 ~~or retail beer permit, the fact that the local authority~~  
24 ~~determines that no liquor control license, retail wine permit,~~  
25 ~~or retail beer permit shall be issued shall not be held to be~~  
26 ~~arbitrary, capricious, or without reasonable cause.~~ There is  
27 no limit upon the number of liquor control licenses, retail  
28 wine permits, or retail beer permits which may be approved for  
29 issuance by local authorities.

30 4. ACTION BY ADMINISTRATOR.

31 a. Upon receipt of an application having been disapproved  
32 by the local authority, the administrator shall ~~disapprove the~~  
33 ~~application,~~ so notify the applicant that the applicant may  
34 appeal the disapproval of the application to the  
35 administrator. The applicant shall be notified by certified

1 mail, and return the application, the fee, and any bond shall  
2 be returned to the applicant.

3 b. Upon receipt of an application having been approved by  
4 the local authority, the division shall make such an  
5 investigation as the administrator deems necessary to  
6 determine that the applicant complies with all requirements  
7 for holding a license or permit, and may require the applicant  
8 to appear to be examined under oath regarding-any-matters  
9 pertinent-to-the-application,-in-which-case to demonstrate  
10 that the applicant complies with all of the requirements to  
11 hold a license or permit. If the administrator requires the  
12 applicant to appear and to testify under oath, a record shall  
13 be made of all testimony or evidence and the same record shall  
14 become a part of the application. The administrator may  
15 appoint a member of the division or may request an  
16 administrative law judge of the department of inspections and  
17 appeals to receive the testimony under oath and evidence, and  
18 to issue a proposed decision to approve or disapprove the  
19 application for a license or permit. The administrator may  
20 affirm or reverse the proposed decision to approve or  
21 disapprove the application for the license or permit. If the  
22 application is approved by the administrator, the license or  
23 permit applied-for shall be issued. If the application is  
24 disapproved by the administrator, the applicant and the  
25 appropriate local authority shall be so notified by certified  
26 mail,-and-the-fee-and-any-bond-returned-to-the-applicant.

27 6. JUDICIAL REVIEW. Judicial The applicant or the local  
28 authority may seek judicial review of the action of the  
29 division-hearing-board-may-be-sought administrator in  
30 accordance with the terms of the Iowa administrative procedure  
31 Act. Notwithstanding the terms of said the Iowa  
32 administrative procedure Act, petitions for judicial review  
33 may be filed in the district court of the county wherein where  
34 the premises covered by the application are situated.

35 Where-the-hearing-board-on-an-appeal-by-an-applicant-finds

1 ~~that the local authority acted arbitrarily, capriciously, or~~  
2 ~~without reasonable cause in disapproving an application and~~  
3 ~~the administrator issues a license or permit, the local~~  
4 ~~authority may seek judicial review of such decision according~~  
5 ~~to the terms of the Iowa Administrative Procedure Act within~~  
6 ~~thirty days.~~

7 Sec. 3. Section 123.32, subsection 5, Code 1993, is  
8 amended by striking the subsection and inserting in lieu  
9 thereof the following:

10 5. APPEAL TO ADMINISTRATOR. An applicant for a liquor  
11 control license, wine permit, or beer permit may appeal from  
12 the local authority's disapproval of an application for a  
13 license or permit to the administrator. In the appeal the  
14 applicant shall be allowed the opportunity to demonstrate in  
15 an evidentiary hearing conducted pursuant to chapter 17A that  
16 the applicant complies with all of the requirements for  
17 holding the license or permit. The administrator may appoint  
18 a member of the division or an administrative law judge from  
19 the department of inspections and appeals to conduct the  
20 evidentiary hearing and to render a proposed decision to  
21 approve or disapprove the issuance of the license or permit.  
22 The administrator may affirm or reverse the proposed decision.  
23 If the administrator determines that the applicant complies  
24 with all of the requirements for holding a license or permit,  
25 the administrator shall order the issuance of the license or  
26 permit. If the administrator determines that the applicant  
27 does not comply with the requirements for holding a license or  
28 permit, the administrator shall disapprove the issuance of the  
29 license or permit.

30 Sec. 4. Section 123.32, Code 1993, is amended by adding  
31 the following new subsection:

32 NEW SUBSECTION. 7. SUSPENSION BY LOCAL AUTHORITY. A  
33 liquor control licensee or a wine or beer permittee whose  
34 license or permit has been suspended or revoked or a civil  
35 penalty imposed by a local authority for a violation of this

1 chapter or suspended by a local authority for violation of a  
2 local ordinance may appeal the suspension, revocation, or  
3 civil penalty to the administrator. The administrator may  
4 appoint a member of the division or an administrative law  
5 judge from the department of inspections and appeals to hear  
6 the appeal which shall be conducted in accordance with chapter  
7 17A and to issue a proposed decision. The administrator may  
8 review the proposed decision upon the motion of a party to the  
9 appeal or upon the administrator's own motion in accordance  
10 with chapter 17A. Upon review of the proposed decision, the  
11 administrator may affirm, reverse, or modify the proposed  
12 decision. A liquor control licensee, wine or beer permittee,  
13 or a local authority aggrieved by a decision of the  
14 administrator may seek judicial review of the decision  
15 pursuant to chapter 17A.

16 Sec. 5. Section 123.37, unnumbered paragraph 5, Code 1993,  
17 is amended by striking the unnumbered paragraph.

18 Sec. 6. Section 123.39, subsection 1, unnumbered paragraph  
19 1, Code 1993, is amended by striking the unnumbered paragraph  
20 and inserting in lieu thereof the following:

21 The administrator or the local authority may suspend a  
22 liquor control license, wine permit, or beer permit for a  
23 period not to exceed one year or revoke the license or permit.  
24 Before suspension or revocation, the license or permit holder  
25 shall be given written notice and a reasonable opportunity for  
26 a hearing. The administrator may appoint a member of the  
27 division or an administrative law judge from the department of  
28 inspections and appeals to conduct the hearing and to render a  
29 proposed decision. Upon the motion of a party to the hearing  
30 or upon the administrator's own motion, the administrator may  
31 review the proposed decision in accordance with chapter 17A.  
32 After review of the proposed decision, the administrator may  
33 affirm, reverse, or modify the proposed decision. A liquor  
34 control licensee or a beer or wine permittee aggrieved by a  
35 decision of the administrator may seek judicial review of the

1 administrator's decision in accordance with chapter 17A. A  
2 license or permit issued under this chapter may be suspended  
3 or revoked by the local authority or the administrator for any  
4 of the following causes:

5 Sec. 7. REPEAL. Section 123.15, Code 1993, is repealed.

6 Sec. 8. APPEAL AFFECTED. This Act applies to  
7 administrative appeals of decisions of the administrator of  
8 the alcoholic beverages division of the department of commerce  
9 or a local authority which are filed on or after July 1, 1993.

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EXPLANATION

11 This bill provides that if a local authority denies,  
12 suspends, or revokes a liquor control license, wine permit, or  
13 beer permit, the applicant, licensee, or permittee may appeal  
14 the action to the administrator of the alcoholic beverages  
15 division of the department of commerce rather than to the  
16 hearing board of that alcoholic beverages division. The local  
17 authority may also impose a civil penalty which may be  
18 appealed to the administrator. The applicant or the local  
19 authority, if aggrieved by the decision of the administrator,  
20 may appeal to the district court. The appeal board of the  
21 alcoholic beverages division is dissolved.

22 This bill may create a state mandate as provided in chapter  
23 25B.

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4-6-93 Senate - State Gov.  
4-8-93 Senate - Amend/Bohns W/S-3458

HOUSE FILE 633  
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 517)

(As Amended and Passed by the House April 2, 1993)

Passed House, <sup>(P.1549)</sup> Date 4/22/93 Passed Senate, <sup>(P.1190)</sup> Date 4/15/93  
Vote: Ayes 96 Nays 4 Vote: Ayes 50 Nays 0  
Approved May 3, 1993

A BILL FOR

1 An Act relating to the approval, disapproval, suspension, or  
2 revocation of liquor control licenses, wine permits, or beer  
3 permits, the imposition of civil penalties, and the appeal of  
4 the actions of local authorities or the administrator of the  
5 alcoholic beverages division regarding liquor control  
6 licenses, wine permits, and beer permits, and providing for  
7 other properly related matters.

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

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House Amendments \_\_\_\_\_

1 Section 1. Section 123.19, subsection 4, Code 1993, is  
2 amended to read as follows:

3 4. Any violation of the requirements of this section,  
4 except subsection 3, shall subject the violator to the general  
5 penalties provided in this chapter and in addition thereto  
6 ~~shall be~~ to the general penalties, is grounds for suspension  
7 or revocation of the certificate of compliance, after notice  
8 and hearing before the ~~division-hearing-board~~ administrator.  
9 Willful failure to comply with requirements which may be  
10 imposed under subsection 3 ~~shall be~~ is grounds for suspension  
11 or revocation of the certificate of compliance only.

12 ~~Decisions of the hearing board concerning such suspension or~~  
13 ~~revocation shall be binding upon all parties.~~

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21 bond, if required, to the division. ~~Upon the initial~~  
22 ~~application for a liquor control license, retail wine permit,~~  
23 ~~or retail beer permit, the fact that the local authority~~  
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32 by the local authority, the administrator shall ~~disapprove the~~  
33 ~~application,~~ so notify the applicant that the applicant may  
34 appeal the disapproval of the application to the  
35 administrator. The applicant shall be notified by certified



1 mail, and return the application, the fee, and any bond shall  
2 be returned to the applicant.

3 b. Upon receipt of an application having been approved by  
4 the local authority, the division shall make such an  
5 investigation as the administrator deems necessary to  
6 determine that the applicant complies with all requirements  
7 for holding a license or permit, and may require the applicant  
8 to appear to be examined under oath regarding any matters  
9 pertinent to the application, in which case to demonstrate  
10 that the applicant complies with all of the requirements to  
11 hold a license or permit. If the administrator requires the  
12 applicant to appear and to testify under oath, a record shall  
13 be made of all testimony or evidence and the same record shall  
14 become a part of the application. The administrator may  
15 appoint a member of the division or may request an  
16 administrative law judge of the department of inspections and  
17 appeals to receive the testimony under oath and evidence, and  
18 to issue a proposed decision to approve or disapprove the  
19 application for a license or permit. The administrator may  
20 affirm, reverse, or modify the proposed decision to approve or  
21 disapprove the application for the license or permit. If the  
22 application is approved by the administrator, the license or  
23 permit applied for shall be issued. If the application is  
24 disapproved by the administrator, the applicant and the  
25 appropriate local authority shall be so notified by certified  
26 mail, and the fee and any bond returned to the applicant.

27 6. JUDICIAL REVIEW. ~~Judicial~~ The applicant or the local  
28 authority may seek judicial review of the action of the  
29 division hearing board may be sought administrator in  
30 accordance with the terms of the Iowa administrative procedure  
31 Act. Notwithstanding the terms of ~~said~~ the Iowa  
32 administrative procedure Act, petitions for judicial review  
33 may be filed in the district court of the county wherein where  
34 the premises covered by the application are situated.

35 Where the hearing board on an appeal by an applicant finds

~~1 that the local authority acted arbitrarily, capriciously, or  
2 without reasonable cause in disapproving an application and  
3 the administrator issues a license or permit, the local  
4 authority may seek judicial review of such decision according  
5 to the terms of the Iowa Administrative Procedure Act within  
6 thirty days.~~

7 Sec. 3. Section 123.32, subsection 5, Code 1993, is  
8 amended by striking the subsection and inserting in lieu  
9 thereof the following:

10 5. APPEAL TO ADMINISTRATOR. An applicant for a liquor  
11 control license, wine permit, or beer permit may appeal from  
12 the local authority's disapproval of an application for a  
13 license or permit to the administrator. In the appeal the  
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15 an evidentiary hearing conducted pursuant to chapter 17A that  
16 the applicant complies with all of the requirements for  
17 holding the license or permit. The administrator may appoint  
18 a member of the division or may request an administrative law  
19 judge from the department of inspections and appeals to  
20 conduct the evidentiary hearing and to render a proposed  
21 decision to approve or disapprove the issuance of the license  
22 or permit. The administrator may affirm, reverse, or modify  
23 the proposed decision. If the administrator determines that  
24 the applicant complies with all of the requirements for  
25 holding a license or permit, the administrator shall order the  
26 issuance of the license or permit. If the administrator  
27 determines that the applicant does not comply with the  
28 requirements for holding a license or permit, the  
29 administrator shall disapprove the issuance of the license or  
30 permit.

31 Sec. 4. Section 123.32, Code 1993, is amended by adding  
32 the following new subsection:

33 NEW SUBSECTION. 7. SUSPENSION BY LOCAL AUTHORITY. A  
34 liquor control licensee or a wine or beer permittee whose  
35 license or permit has been suspended or revoked or a civil

1 penalty imposed by a local authority for a violation of this  
2 chapter or suspended by a local authority for violation of a  
3 local ordinance may appeal the suspension, revocation, or  
4 civil penalty to the administrator. The administrator may  
5 appoint a member of the division or may request an  
6 administrative law judge from the department of inspections  
7 and appeals to hear the appeal which shall be conducted in  
8 accordance with chapter 17A and to issue a proposed decision.  
9 The administrator may review the proposed decision upon the  
10 motion of a party to the appeal or upon the administrator's  
11 own motion in accordance with chapter 17A. Upon review of the  
12 proposed decision, the administrator may affirm, reverse, or  
13 modify the proposed decision. A liquor control licensee, wine  
14 or beer permittee, or a local authority aggrieved by a  
15 decision of the administrator may seek judicial review of the  
16 decision pursuant to chapter 17A.

17 Sec. 5. Section 123.37, unnumbered paragraph 5, Code 1993,  
18 is amended by striking the unnumbered paragraph.

19 Sec. 6. Section 123.39, subsection 1, unnumbered paragraph  
20 1, Code 1993, is amended by striking the unnumbered paragraph  
21 and inserting in lieu thereof the following:

22 The administrator or the local authority may suspend a  
23 liquor control license, wine permit, or beer permit for a  
24 period not to exceed one year or revoke the license or permit.  
25 Before suspension or revocation, the license or permit holder  
26 shall be given written notice and a reasonable opportunity for  
27 a hearing. The administrator may appoint a member of the  
28 division or may request an administrative law judge from the  
29 department of inspections and appeals to conduct the hearing  
30 and to render a proposed decision. Upon the motion of a party  
31 to the hearing or upon the administrator's own motion, the  
32 administrator may review the proposed decision in accordance  
33 with chapter 17A. After review of the proposed decision, the  
34 administrator may affirm, reverse, or modify the proposed  
35 decision. A liquor control licensee or a beer or wine

1 permittee aggrieved by a decision of the administrator may  
2 seek judicial review of the administrator's decision in  
3 accordance with chapter 17A. A license or permit issued under  
4 this chapter may be suspended or revoked by the local  
5 authority or the administrator for any of the following  
6 causes:

7     Sec. 7. REPEAL. Section 123.15, Code 1993, is repealed.

8     Sec. 8. APPEAL AFFECTED. This Act applies to  
9 administrative appeals of decisions of the administrator of  
10 the alcoholic beverages division of the department of commerce  
11 or a local authority which are filed on or after July 1, 1993.

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## HOUSE FILE 633

S-3458

1 Amend House File 633, as amended, passed, and  
2 reprinted by the House, as follows:

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

5 "Section 1. Section 123.3, subsection 26,  
6 paragraphs c and e, Code 1993, are amended to read as  
7 follows:

8 c. ~~is~~ Notwithstanding paragraph "e", the applicant  
9 is a citizen of the United States and a resident of  
10 this state, or licensed to do business in this state  
11 in the case of a corporation. Notwithstanding  
12 paragraph "f e," in the case of a partnership, only  
13 one general partner need be a resident of this state.

14 e. ~~if such person is a corporation, partnership,~~  
15 ~~association, club, or hotel or motel the~~ The  
16 requirements of this subsection ~~shall~~ apply to each  
17 the following:

18 (1) Each of the officers, directors, and partners  
19 of such person, and to any.

20 (2) A person who directly or indirectly owns or  
21 controls ten percent or more of any class of stock of  
22 such person or.

23 (3) A person who directly or indirectly has an  
24 interest of ten percent or more in the ownership or  
25 profits of such person. For the purposes of this  
26 provision, an individual and the individual's spouse  
27 shall be regarded as one person.

28 Sec. \_\_\_\_ . Section 123.16, subsection 2, paragraph  
29 b, Code 1993, is amended by striking the paragraph."

30 2. Page 1, by inserting after line 13 the  
31 following:

32 "Sec. \_\_\_\_ . Section 123.24, subsection 2,  
33 paragraphs a and b, Code 1993, are amended to read as  
34 follows:

35 a. The division may accept from a class "E" liquor  
36 control licensee a cashier's check which shows the  
37 licensee is the remitter or a check issued by the  
38 licensee in payment of alcoholic liquor. If a check  
39 is subsequently dishonored, the division shall cause a  
40 notice of nonpayment and penalty to be served upon the  
41 class "E" liquor control licensee or upon any person  
42 in charge of the licensed premises. The notice shall  
43 state that if payment or satisfaction for the  
44 dishonored check is not made within ten days of the  
45 service of notice, the licensee's liquor control  
46 license ~~shall~~ may be suspended under section 123.39.  
47 The notice of nonpayment and penalty shall be in a  
48 form prescribed by the administrator, and shall be  
49 sent by certified mail.

50 b. If upon notice and hearing under section 123.39

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Page 2

1 and pursuant to the provisions of chapter 17A  
 2 concerning a contested case hearing, the administrator  
 3 determines that the class "E" liquor control licensee  
 4 failed to satisfy the obligation for which the check  
 5 was issued within ten days after the notice of  
 6 nonpayment and penalty was served on the licensee as  
 7 provided in paragraph "a" of this subsection, the  
 8 administrator ~~shall~~ may suspend the licensee's class  
 9 "E" liquor control license for ~~not-less-than-three~~  
 10 ~~days-but-not-more-than-thirty~~ a period not to exceed  
 11 ten days.

12 Sec. \_\_\_\_\_. Section 123.24, subsection 2, paragraph  
 13 c, Code 1993, is amended by striking the paragraph.

14 Sec. \_\_\_\_\_. Section 123.29, Code 1993, is amended by  
 15 striking the section and inserting in lieu thereof the  
 16 following:

17 123.29 PATENT AND PROPRIETARY PRODUCTS CONTAINING  
 18 ALCOHOLIC LIQUOR, WINE, OR BEER.

19 1. This chapter does not prohibit the sale of  
 20 patent and proprietary medicines, tinctures, food  
 21 products, extracts, toiletries, perfumes, and similar  
 22 products, which are not susceptible of use as a  
 23 beverage, but which contain alcoholic liquor, wine, or  
 24 beer as one of their ingredients. These products may  
 25 be sold through ordinary wholesale and retail  
 26 businesses without a license or permit issued by the  
 27 division.

28 2. This chapter does not prohibit a member of the  
 29 clergy of any religious denomination which uses vinous  
 30 liquor in its sacramental ceremonies from purchasing,  
 31 receiving, possessing, and using vinous liquor for  
 32 sacramental purposes.

33 Sec. \_\_\_\_\_. Section 123.30, subsection 1, Code 1993,  
 34 is amended to read as follows:

35 1. a. A liquor control license may be issued to  
 36 any person who, ~~or-whose-officers-in-the-case-of-a~~  
 37 ~~club-or-corporation, or-whose-partners-in-the-case-of~~  
 38 ~~a-partnership, are~~ is of good moral character as  
 39 defined by this chapter.

40 b. As a condition for issuance of a liquor control  
 41 license or wine or beer permit, the applicant must  
 42 give consent to members of the fire, police, and  
 43 health departments and the building inspector of  
 44 cities; the county sheriff, deputy sheriff, members of  
 45 the department of public safety, representatives of  
 46 the division and of the department of inspections and  
 47 appeals, certified police officers, and any official  
 48 county health officer to enter upon areas of the  
 49 premises where alcoholic beverages are stored, served,  
 50 or sold, without a warrant during business hours of

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Page 3

the licensee or permittee to inspect for violations 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 premises 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.

c. As a further condition for the issuance of a class "E" liquor control license, the applicant shall post a bond in a sum of not less than five thousand nor more than fifteen thousand dollars as determined on a sliding scale established by the division; however, a bond shall not be required if all purchases of alcoholic liquor from the division by the licensee are made by cash payment or by means that ensure that the division will receive full payment in advance of delivery of the alcoholic liquor.

d. A class "E" liquor control license may be issued to a city council for premises located within the limits of the city if there are no class "E" liquor control licensees operating within the limits of the city and no other applications for a class "E" license for premises located within the limits of the city at the time the city council's application is filed. If a class "E" liquor control license is subsequently issued to a private person for premises located within the limits of the city, the city council shall surrender its license to the division within one year of the date that the class "E" liquor control licensee begins operating, liquidate any remaining assets connected with the liquor store, and cease operating the liquor store.

Sec. \_\_\_\_ . Section 123.30, subsection 3, paragraph d, Code 1993, is amended to read as follows:

d. CLASS "D".

(1) A class "D" liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five persons or more operating in inland or boundary waters, and shall

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-3-

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Page 4

1 authorize the holder to sell or furnish alcoholic  
2 beverages, wine, and beer to passengers for  
3 consumption only on trains, watercraft as described in  
4 this section, or aircraft, respectively. Each license  
5 is valid throughout the state. Only one license is  
6 required for all trains, watercraft, or aircraft  
7 operated in the state by the licensee. However, if a  
8 watercraft is an excursion gambling boat licensed  
9 under chapter 99F, the owner shall obtain a separate  
10 class "D" liquor control license for each excursion  
11 gambling boat operating in the waters of this state.

12 (2) A class "D" liquor control licensee who  
13 operates a train or a watercraft intrastate only, or  
14 an excursion gambling boat licensed under chapter 99F,  
15 shall purchase alcoholic liquor from a class "E"  
16 liquor control licensee only, wine from a class "A"  
17 wine permittee or a class "B" wine permittee who also  
18 holds a class "E" liquor control license only, and  
19 beer from a class "A" beer permittee only."

20 3. Page 4, by inserting after line 16 the  
21 following:

22 "Sec. \_\_\_\_ . Section 123.36, subsection 1, Code  
23 1993, is amended by striking the subsection."

24 4. By striking page 4, line 19 through page 5,  
25 line 6 and inserting the following:

26 "Sec. \_\_\_\_ . Section 123.39, subsection 1, Code  
27 1993, is amended to read as follows:

28 1. a. Any The administrator or the local  
29 authority may suspend a liquor control license, wine  
30 permit, or beer permit issued under this chapter may,  
31 after notice in writing to the licensee or permit  
32 holder and reasonable opportunity for hearing, and  
33 subject to section 129.50 where applicable, be  
34 suspended for a period not to exceed one year or  
35 revoked, revoke the license or permit, or impose a  
36 civil penalty not to exceed one thousand dollars per  
37 violation. Before suspension, revocation, or  
38 imposition of a civil penalty, the licensee or permit  
39 holder shall be given written notice and an  
40 opportunity for a hearing. The administrator may  
41 appoint a member of the division or may request an  
42 administrative law judge from the department of  
43 inspections and appeals to conduct the hearing and  
44 issue a proposed decision. Upon the motion of a party  
45 to the hearing or upon the administrator's own motion,  
46 the administrator may review the proposed decision in  
47 accordance with chapter 17A. Upon review of the  
48 proposed decision, the administrator may affirm,  
49 reverse, or modify the proposed decision. A liquor  
50 control licensee, wine, or beer permittee aggrieved by

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a decision of the administrator may seek judicial review of the administrator's decision in accordance with chapter 17A.

b. A license or permit issued under this chapter may be suspended or revoked, or a civil penalty may be imposed on the license or permit holder by the local authority or the administrator for any of the following causes:

a- (1) Misrepresentation of any material fact in the application for the license or permit.

b- (2) Violation of any of the provisions of this chapter.

c- (3) Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any wine or beer permit, which change was not previously reported to and approved by the local authority and the division.

d- (4) An event which would have resulted in disqualification from receiving the license or permit when originally issued.

e- (5) Any sale, hypothecation, or transfer of the license or permit.

f- (6) The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under this chapter when due.

c. A criminal conviction is not a prerequisite to suspension, revocation, or imposition of a civil penalty pursuant to this section. A local authority which acts pursuant to this section or section 123.32 shall notify the division in writing of the action taken, and shall notify the licensee or permit holder of the right to appeal a suspension, revocation, or imposition of a civil penalty to the division. Civil penalties imposed and collected by the local authority under this section shall be retained by the local authority. Civil penalties imposed and collected by the division under this section shall be retained by the division.

Sec. \_\_\_\_ . Section 123.39, subsection 4, Code 1993, is amended to read as follows:

4. 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

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1 penalties collected under this paragraph if the  
2 proceeding to impose the penalty is conducted by the  
3 administrator of the division. ~~If the matter is~~  
4 ~~appealed to the division's hearing board, the hearing~~  
5 ~~board shall not reduce the amount of the civil penalty~~  
6 ~~imposed under this paragraph if a violation of section~~  
7 ~~123.49, subsection 2, paragraph "h" is found.~~

8 Sec. \_\_\_\_ . Section 123.50, subsection 3, unnumbered  
9 paragraph 1 and paragraphs a, c, and d, Code 1993, are  
10 amended to read as follows:

11 If any licensee, wine permittee, beer permittee, or  
12 employee of a licensee or permittee is convicted of a  
13 violation of section 123.49, subsection 2, paragraph  
14 "h", or if a retail wine or beer permittee is  
15 convicted of a violation of paragraph "i" of that  
16 subsection, the administrator or local authority  
17 shall, in addition to ~~the other~~ criminal penalties  
18 fixed for ~~such~~ violations by this section, assess a  
19 civil penalty as follows:

20 a. Upon a first conviction, the violator's liquor  
21 control license, wine permit, or beer permit shall be  
22 suspended for a period of fourteen days. However, if  
23 the conviction is for a violation of section 123.49,  
24 subsection 2, paragraph "h", ~~which occurred on or~~  
25 ~~after January 17, 1988~~, the violator's liquor control  
26 license or wine or beer permit shall not be suspended,  
27 but the violator shall be assessed a civil penalty in  
28 the amount of three hundred dollars. Failure to pay  
29 the civil penalty as ordered under section 123.39 for  
30 a violation of section 123.49, subsection 2, paragraph  
31 "h", or this subsection will result in automatic  
32 suspension of the license or permit for a period of  
33 fourteen days.

34 c. Upon a third conviction within a period of ~~five~~  
35 three years, the violator's liquor control license,  
36 wine permit, or beer permit shall be suspended for a  
37 period of sixty days.

38 d. Upon a fourth conviction within a period of  
39 ~~five~~ three years, the violator's liquor control  
40 license, wine permit, or beer permit shall be revoked.

41 Sec. \_\_\_\_ . Section 123.53, Code 1993, is amended by  
42 adding the following new subsection:

43 NEW SUBSECTION. 5. Notwithstanding section 8.33,  
44 civil penalties imposed and collected by the division  
45 shall not revert to the general fund of the state.  
46 The moneys from the civil penalties are appropriated  
47 for use by the division for the purposes of providing  
48 educational programs, information and publications for  
49 alcoholic beverage licensees and permittees, local  
50 authorities, and law enforcement agencies regarding

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the laws and rules which govern the alcoholic beverages industry, and for promoting compliance with alcoholic beverage laws and rules.

4 Sec. \_\_\_\_ . Section 123.95, Code 1993, is amended by  
5 striking the section and inserting in lieu thereof the  
6 following:

7 123.95 PREMISES MUST BE LICENSED -- EXCEPTION AS  
8 TO CONVENTIONS AND SOCIAL GATHERINGS.

9 1. A person shall not allow the dispensing or  
10 consumption of alcoholic liquor, except wines and  
11 beer, in any establishment unless the establishment is  
12 licensed under this chapter or except as otherwise  
13 provided in this section. The holder of an annual  
14 class "B" liquor control license or an annual class  
15 "C" liquor control license may act as the agent of a  
16 private social host for the purpose of providing and  
17 serving alcoholic liquor, wine, and beer as part of a  
18 food catering service for a private social gathering  
19 in a private place. The holder of an annual special  
20 class "C" liquor control license shall not act as the  
21 agent of a private social host for the purpose of  
22 providing and serving wine and beer as part of a food  
23 catering service for a private social gathering in a  
24 private place. The private social host or the  
25 licensee shall not solicit donations in payment for  
26 the food or alcoholic beverages from the guests, and  
27 the alcoholic beverages and food shall be served  
28 without cost to the guests. Section 123.92 does not  
29 apply to a liquor control licensee who acts in  
30 accordance with this section when the liquor control  
31 licensee is providing and serving food and alcoholic  
32 beverages as an agent of a private social host at a  
33 private social gathering in a private place which is  
34 not on the licensed premises.

35 2. An applicant for a class "B" liquor control  
36 license or class "C" liquor control license shall  
37 state on the application for the license that the  
38 licensee intends to engage in catering food and  
39 alcoholic beverages for private social gatherings and  
40 the catering privilege shall be noted on the license  
41 or permit. A licensee who engages in catering food  
42 and alcoholic beverages for private social gatherings  
43 shall maintain a record on the licensed premises which  
44 includes the name and address of the host of the  
45 private social gathering, and the date for which  
46 catering was provided. The record maintained pursuant  
47 to this section shall be open to inspection pursuant  
48 to section 123.30, subsection 1, during normal  
49 business hours of the licensee.

50 3. However, bona fide conventions or meetings may

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1 bring their own legal liquor onto the licensed  
 2 premises if the liquor is served to delegates or  
 3 guests without cost. All other provisions of this  
 4 chapter shall be applicable to such premises. The  
 5 provisions of this section shall have no application  
 6 to private social gatherings of friends or relatives  
 7 in a private home or private place which is not of a  
 8 commercial nature nor where goods or services may be  
 9 purchased or sold nor any charge or rent or other  
 10 thing of value is exchanged for the use of such  
 11 premises for any purpose other than for sleeping  
 12 quarters.

13 Sec. \_\_\_\_\_. Section 123.177, subsection 1, Code  
 14 1993, is amended to read as follows:

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

26 5. Page 5, by striking line 7 and inserting the  
 27 following:

28 "Sec. \_\_\_\_\_. REPEALS. Sections 123.15 and 123.151,  
 29 Code 1993, are repealed."

30 6. Title page, line 6, by inserting after the  
 31 word "beer permits," the following: "the  
 32 appropriation of moneys collected through civil  
 33 penalties, the removal of certain restrictions on the  
 34 sale of alcoholic beverages,".

By COMMITTEE ON STATE GOVERNMENT  
 MICHAEL E. GRONSTAL, Chairperson

S-3458 FILED APRIL 8, 1993

*Adopted*  
*4-15-93*  
*(P. 1189)*

## HOUSE FILE 633

3460

Amend House File 633, as amended, passed, and  
reprinted by the House, as follows:

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

"Sec. \_\_\_\_ . Section 123.31, unnumbered paragraph 1,  
Code 1993, is amended to read as follows:

Verified Except as otherwise provided in section  
123.35, verified applications for the original  
issuance or the renewal of liquor control licenses  
shall be filed at ~~such~~ the time and in ~~such~~ the number  
of copies as the administrator shall prescribe, on  
forms prescribed by the administrator, and ~~except as~~  
~~provided in section 123.35~~, shall set forth under oath  
the following information:"

2. Page 4, by inserting after line 16, the  
following:

"Sec. \_\_\_\_ . Section 123.35, unnumbered paragraph 2,  
Code 1993, is amended to read as follows:

Such The application, accompanied by the necessary  
fee and bond, if required, shall be filed in the same  
manner as is provided for filing the initial  
application. However, for the renewal of a class "E"  
license, the simplified application form for renewal,  
accompanied by the necessary fee and bond if required,  
shall be filed directly with the administrator without  
the endorsement of local authorities if all of the  
following conditions are met: the applicant's license  
has not been suspended or revoked since the preceding  
license was issued; a civil penalty has not been  
imposed against the applicant under this chapter since  
the preceding license was issued; an administrative  
proceeding is not pending against the applicant to  
suspend or revoke the applicant's license or to impose  
a civil penalty under this chapter; and the applicant  
has not been convicted of a violation of this chapter  
since the preceding license was issued."

By JOHN P. KIBBIE  
JOE J. WELSH

S-3460 FILED APRIL 8, 1993

*Adopted*  
*4-15-93*  
*(P. 1189)*

## SENATE AMENDMENT TO HOUSE FILE 633

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1 Amend House File 633, as amended, passed, and  
2 reprinted by the House, as follows:

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

5 "Section 1. Section 123.3, subsection 26,  
6 paragraphs c and e, Code 1993, are amended to read as  
7 follows:

8 ~~c. Notwithstanding paragraph "e", the applicant~~  
9 ~~is a citizen of the United States and a resident of~~  
10 ~~this state, or licensed to do business in this state~~  
11 ~~in the case of a corporation. Notwithstanding~~  
12 ~~paragraph "f e," in the case of a partnership, only~~  
13 ~~one general partner need be a resident of this state.~~

14 ~~e. If such person is a corporation, partnership,~~  
15 ~~association, club, or hotel or motel the~~ The  
16 requirements of this subsection ~~shall~~ apply to each  
17 the following:

18 (1) Each of the officers, directors, and partners  
19 of such person, and to any.

20 (2) A person who directly or indirectly owns or  
21 controls ten percent or more of any class of stock of  
22 such person or.

23 (3) A person who directly or indirectly has an  
24 interest of ten percent or more in the ownership or  
25 profits of such person. For the purposes of this  
26 provision, an individual and the individual's spouse  
27 shall be regarded as one person.

28 Sec. \_\_\_\_. Section 123.16, subsection 2, paragraph  
29 b, Code 1993, is amended by striking the paragraph."

30 2. Page 1, by inserting after line 13 the  
31 following:

32 "Sec. \_\_\_\_. Section 123.24, subsection 2,  
33 paragraphs a and b, Code 1993, are amended to read as  
34 follows:

35 a. The division may accept from a class "E" liquor  
36 control licensee a cashier's check which shows the  
37 licensee is the remitter or a check issued by the  
38 licensee in payment of alcoholic liquor. If a check  
39 is subsequently dishonored, the division shall cause a  
40 notice of nonpayment and penalty to be served upon the  
41 class "E" liquor control licensee or upon any person  
42 in charge of the licensed premises. The notice shall  
43 state that if payment or satisfaction for the  
44 dishonored check is not made within ten days of the  
45 service of notice, the licensee's liquor control  
46 license ~~shall~~ may be suspended under section 123.39.  
47 The notice of nonpayment and penalty shall be in a  
48 form prescribed by the administrator, and shall be  
49 sent by certified mail.

50 b. If upon notice and hearing under section 123.39

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1 and pursuant to the provisions of chapter 17A  
2 concerning a contested case hearing, the administrator  
3 determines that the class "E" liquor control licensee  
4 failed to satisfy the obligation for which the check  
5 was issued within ten days after the notice of  
6 nonpayment and penalty was served on the licensee as  
7 provided in paragraph "a" of this subsection, the  
8 administrator ~~shall~~ may suspend the licensee's class  
9 "E" liquor control license for ~~not-less-than-three~~  
10 ~~days-but-not-more-than-thirty~~ a period not to exceed  
11 ten days.

12 Sec. \_\_\_\_\_. Section 123.24, subsection 2, paragraph  
13 c, Code 1993, is amended by striking the paragraph.

14 Sec. \_\_\_\_\_. Section 123.29, Code 1993, is amended by  
15 striking the section and inserting in lieu thereof the  
16 following:

17 123.29 PATENT AND PROPRIETARY PRODUCTS CONTAINING  
18 ALCOHOLIC LIQUOR, WINE, OR BEER.

19 1. This chapter does not prohibit the sale of  
20 patent and proprietary medicines, tinctures, food  
21 products, extracts, toiletries, perfumes, and similar  
22 products, which are not susceptible of use as a  
23 beverage, but which contain alcoholic liquor, wine, or  
24 beer as one of their ingredients. These products may  
25 be sold through ordinary wholesale and retail  
26 businesses without a license or permit issued by the  
27 division.

28 2. This chapter does not prohibit a member of the  
29 clergy of any religious denomination which uses vinous  
30 liquor in its sacramental ceremonies from purchasing,  
31 receiving, possessing, and using vinous liquor for  
32 sacramental purposes.

33 Sec. \_\_\_\_\_. Section 123.30, subsection 1, Code 1993,  
34 is amended to read as follows:

35 1. a. A liquor control license may be issued to  
36 any person who, ~~or-whose-officers-in-the-case-of-a~~  
37 ~~club-or-corporation,-or-whose-partners-in-the-case-of~~  
38 ~~a-partnership,-are~~ is of good moral character as  
39 defined by this chapter.

40 b. As a condition for issuance of a liquor control  
41 license or wine or beer permit, the applicant must  
42 give consent to members of the fire, police, and  
43 health departments and the building inspector of  
44 cities; the county sheriff, deputy sheriff, members of  
45 the department of public safety, representatives of  
46 the division and of the department of inspections and  
47 appeals, certified police officers, and any official  
48 county health officer to enter upon areas of the  
49 premises where alcoholic beverages are stored, served,  
50 or sold, without a warrant during business hours of

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1 the licensee or permittee to inspect for violations of  
2 this chapter or ordinances and regulations that cities  
3 and boards of supervisors may adopt. However, a  
4 subpoena issued under section 421.17 or a warrant is  
5 required for inspection of private records, a private  
6 business office, or attached living quarters. Persons  
7 who are not certified peace officers shall limit the  
8 scope of their inspections of licensed premises to the  
9 regulatory authority under which the inspection is  
10 conducted. All persons who enter upon a licensed  
11 premise premises to conduct an inspection shall  
12 present appropriate identification to the owner of the  
13 establishment or the person who appears to be in  
14 charge of the establishment prior to commencing an  
15 inspection; however, this provision does not apply to  
16 undercover criminal investigations conducted by peace  
17 officers.

18 c. As a further condition for the issuance of a  
19 class "E" liquor control license, the applicant shall  
20 post a bond in a sum of not less than five thousand  
21 nor more than fifteen thousand dollars as determined  
22 on a sliding scale established by the division;  
23 however, a bond shall not be required if all purchases  
24 of alcoholic liquor from the division by the licensee  
25 are made by cash payment or by means that ensure that  
26 the division will receive full payment in advance of  
27 delivery of the alcoholic liquor.

28 d. A class "E" liquor control license may be  
29 issued to a city council for premises located within  
30 the limits of the city if there are no class "E"  
31 liquor control licensees operating within the limits  
32 of the city and no other applications for a class "E"  
33 license for premises located within the limits of the  
34 city at the time the city council's application is  
35 filed. If a class "E" liquor control license is  
36 subsequently issued to a private person for premises  
37 located within the limits of the city, the city  
38 council shall surrender its license to the division  
39 within one year of the date that the class "E" liquor  
40 control licensee begins operating, liquidate any  
41 remaining assets connected with the liquor store, and  
42 cease operating the liquor store.

43 Sec. \_\_\_\_ . Section 123.30, subsection 3, paragraph  
44 d, Code 1993, is amended to read as follows:

45 d. CLASS "D".

46 (1) A class "D" liquor control license may be  
47 issued to a railway corporation, to an air common  
48 carrier, and to passenger-carrying boats or ships for  
49 hire with a capacity of twenty-five persons or more  
50 operating in inland or boundary waters, and shall

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1 authorize the holder to sell or furnish alcoholic  
2 beverages, wine, and beer to passengers for  
3 consumption only on trains, watercraft as described in  
4 this section, or aircraft, respectively. Each license  
5 is valid throughout the state. Only one license is  
6 required for all trains, watercraft, or aircraft  
7 operated in the state by the licensee. However, if a  
8 watercraft is an excursion gambling boat licensed  
9 under chapter 99F, the owner shall obtain a separate  
10 class "D" liquor control license for each excursion  
11 gambling boat operating in the waters of this state.

12 (2) A class "D" liquor control licensee who  
13 operates a train or a watercraft intrastate only, or  
14 an excursion gambling boat licensed under chapter 99F,  
15 shall purchase alcoholic liquor from a class "E"  
16 liquor control licensee only, wine from a class "A"  
17 wine permittee or a class "B" wine permittee who also  
18 holds a class "E" liquor control license only, and  
19 beer from a class "A" beer permittee only."

20 3. Page 1, by inserting after line 13, the  
21 following:

22 "Sec. \_\_\_\_ . Section 123.31, unnumbered paragraph 1,  
23 Code 1993, is amended to read as follows:

24 Verified Except as otherwise provided in section  
25 123.35, verified applications for the original  
26 issuance or the renewal of liquor control licenses  
27 shall be filed at such the time and in such the number  
28 of copies as the administrator shall prescribe, on  
29 forms prescribed by the administrator, and, ~~except as~~  
30 provided in section 123.35, shall set forth under oath  
31 the following information:".

32 5. Page 4, by inserting after line 16, the  
33 following:

34 "Sec. \_\_\_\_ . Section 123.35, unnumbered paragraph 2,  
35 Code 1993, is amended to read as follows:

36 Such The application, accompanied by the necessary  
37 fee and bond, if required, shall be filed in the same  
38 manner as is provided for filing the initial  
39 application. However, for the renewal of a class "E"  
40 license, the simplified application form for renewal,  
41 accompanied by the necessary fee and bond if required,  
42 shall be filed directly with the administrator without  
43 the endorsement of local authorities if all of the  
44 following conditions are met: the applicant's license  
45 has not been suspended or revoked since the preceding  
46 license was issued; a civil penalty has not been  
47 imposed against the applicant under this chapter since  
48 the preceding license was issued; an administrative  
49 proceeding is not pending against the applicant to  
50 suspend or revoke the applicant's license or to impose

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1 a civil penalty under this chapter; and the applicant  
2 has not been convicted of a violation of this chapter  
3 since the preceding license was issued."

4 4. Page 4, by inserting after line 16 the  
5 following:

6 "Sec. \_\_\_\_ . Section 123.36, subsection 1, Code  
7 1993, is amended by striking the subsection."

8 6. By striking page 4, line 19 through page 5,  
9 line 6 and inserting the following:

10 "Sec. \_\_\_\_ . Section 123.39, subsection 1, Code  
11 1993, is amended to read as follows:

12 1. a. Any The administrator or the local  
13 authority may suspend a liquor control license, wine  
14 permit, or beer permit ~~issued under this chapter may~~  
15 ~~after notice in writing to the license or permit~~  
16 ~~holder and reasonable opportunity for hearing, and~~  
17 ~~subject to section 123.50 where applicable, be~~  
18 suspended for a period not to exceed one year or  
19 revoked, revoke the license or permit, or impose a  
20 civil penalty not to exceed one thousand dollars per  
21 violation. Before suspension, revocation, or  
22 imposition of a civil penalty, the licensee or permit  
23 holder shall be given written notice and an  
24 opportunity for a hearing. The administrator may  
25 appoint a member of the division or may request an  
26 administrative law judge from the department of  
27 inspections and appeals to conduct the hearing and  
28 issue a proposed decision. Upon the motion of a party  
29 to the hearing or upon the administrator's own motion,  
30 the administrator may review the proposed decision in  
31 accordance with chapter 17A. Upon review of the  
32 proposed decision, the administrator may affirm,  
33 reverse, or modify the proposed decision. A liquor  
34 control licensee, wine, or beer permittee aggrieved by  
35 a decision of the administrator may seek judicial  
36 review of the administrator's decision in accordance  
37 with chapter 17A.

38 b. A license or permit issued under this chapter  
39 may be suspended or revoked, or a civil penalty may be  
40 imposed on the license or permit holder by the local  
41 authority or the administrator for any of the  
42 following causes:

43 a- (1) Misrepresentation of any material fact in  
44 the application for the license or permit.

45 b- (2) Violation of any of the provisions of this  
46 chapter.

47 c- (3) Any change in the ownership or interest in  
48 the business operated under a class "A", class "B", or  
49 class "C" liquor control license, or any wine or beer  
50 permit, which change was not previously reported to

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1 and approved by the local authority and the division.

2 d- (4) An event which would have resulted in  
3 disqualification from receiving the license or permit  
4 when originally issued.

5 e- (5) Any sale, hypothecation, or transfer of the  
6 license or permit.

7 f- (6) The failure or refusal on the part of any  
8 licensee or permittee to render any report or remit  
9 any taxes to the division under this chapter when due.

10 c. A criminal conviction is not a prerequisite to  
11 suspension, revocation, or imposition of a civil  
12 penalty pursuant to this section. A local authority  
13 which acts pursuant to this section or section 123.32  
14 shall notify the division in writing of the action  
15 taken, and shall notify the licensee or permit holder  
16 of the right to appeal a suspension, revocation, or  
17 imposition of a civil penalty to the division. Civil  
18 penalties imposed and collected by the local authority  
19 under this section shall be retained by the local  
20 authority. Civil penalties imposed and collected by  
21 the division under this section shall be retained by  
22 the division.

23 Sec. \_\_\_\_ . Section 123.39, subsection 4, Code 1993,  
24 is amended to read as follows:

25 4. If the cause for suspension is a first offense  
26 violation of section 123.49, subsection 2, paragraph  
27 "h", ~~and the violation occurred on or after January 17~~  
28 ~~1988~~, the administrator or local authority shall  
29 impose a civil penalty in the amount of three hundred  
30 dollars in lieu of suspension of the license or  
31 permit. Local authorities shall retain civil  
32 penalties collected under this paragraph if the  
33 proceeding to impose the penalty is conducted by the  
34 local authority. The division shall retain civil  
35 penalties collected under this paragraph if the  
36 proceeding to impose the penalty is conducted by the  
37 administrator of the division. ~~If the matter is~~  
38 ~~appealed to the division's hearing board, the hearing~~  
39 ~~board shall not reduce the amount of the civil penalty~~  
40 ~~imposed under this paragraph if a violation of section~~  
41 ~~123.49, subsection 2, paragraph "h" is found.~~

42 Sec. \_\_\_\_ . Section 123.50, subsection 3, unnumbered  
43 paragraph 1 and paragraphs a, c, and d, Code 1993, are  
44 amended to read as follows:

45 If any licensee, wine permittee, beer permittee, or  
46 employee of a licensee or permittee is convicted of a  
47 violation of section 123.49, subsection 2, paragraph  
48 "h", or if a retail wine or beer permittee is  
49 convicted of a violation of paragraph "i" of that  
50 subsection, the administrator or local authority

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1 shall, in addition to ~~the other~~ criminal penalties  
2 fixed for ~~such~~ violations by this section, assess a  
3 civil penalty as follows:

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

18 c. Upon a third conviction within a period of ~~five~~  
19 three years, the violator's liquor control license,  
20 wine permit, or beer permit shall be suspended for a  
21 period of sixty days.

22 d. Upon a fourth conviction within a period of  
23 ~~five~~ three years, the violator's liquor control  
24 license, wine permit, or beer permit shall be revoked.

25 Sec. \_\_\_\_\_. Section 123.53, Code 1993, is amended by  
26 adding the following new subsection:

27 NEW SUBSECTION. 5. Notwithstanding section 8.33,  
28 civil penalties imposed and collected by the division  
29 shall not revert to the general fund of the state.  
30 The moneys from the civil penalties are appropriated  
31 for use by the division for the purposes of providing  
32 educational programs, information and publications for  
33 alcoholic beverage licensees and permittees, local  
34 authorities, and law enforcement agencies regarding  
35 the laws and rules which govern the alcoholic  
36 beverages industry, and for promoting compliance with  
37 alcoholic beverage laws and rules.

38 Sec. \_\_\_\_\_. Section 123.95, Code 1993, is amended by  
39 striking the section and inserting in lieu thereof the  
40 following:

41 123.95 PREMISES MUST BE LICENSED -- EXCEPTION AS  
42 TO CONVENTIONS AND SOCIAL GATHERINGS.

43 1. A person shall not allow the dispensing or  
44 consumption of alcoholic liquor, except wines and  
45 beer, in any establishment unless the establishment is  
46 licensed under this chapter or except as otherwise  
47 provided in this section. The holder of an annual  
48 class "B" liquor control license or an annual class  
49 "C" liquor control license may act as the agent of a  
50 private social host for the purpose of providing and

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1 serving alcoholic liquor, wine, and beer as part of a  
2 food catering service for a private social gathering  
3 in a private place. The holder of an annual special  
4 class "C" liquor control license shall not act as the  
5 agent of a private social host for the purpose of  
6 providing and serving wine and beer as part of a food  
7 catering service for a private social gathering in a  
8 private place. The private social host or the  
9 licensee shall not solicit donations in payment for  
10 the food or alcoholic beverages from the guests, and  
11 the alcoholic beverages and food shall be served  
12 without cost to the guests. Section 123.92 does not  
13 apply to a liquor control licensee who acts in  
14 accordance with this section when the liquor control  
15 licensee is providing and serving food and alcoholic  
16 beverages as an agent of a private social host at a  
17 private social gathering in a private place which is  
18 not on the licensed premises.

19 2. An applicant for a class "B" liquor control  
20 license or class "C" liquor control license shall  
21 state on the application for the license that the  
22 licensee intends to engage in catering food and  
23 alcoholic beverages for private social gatherings and  
24 the catering privilege shall be noted on the license  
25 or permit. A licensee who engages in catering food  
26 and alcoholic beverages for private social gatherings  
27 shall maintain a record on the licensed premises which  
28 includes the name and address of the host of the  
29 private social gathering, and the date for which  
30 catering was provided. The record maintained pursuant  
31 to this section shall be open to inspection pursuant  
32 to section 123.30, subsection 1, during normal  
33 business hours of the licensee.

34 3. However, bona fide conventions or meetings may  
35 bring their own legal liquor onto the licensed  
36 premises if the liquor is served to delegates or  
37 guests without cost. All other provisions of this  
38 chapter shall be applicable to such premises. The  
39 provisions of this section shall have no application  
40 to private social gatherings of friends or relatives  
41 in a private home or private place which is not of a  
42 commercial nature nor where goods or services may be  
43 purchased or sold nor any charge or rent or other  
44 thing of value is exchanged for the use of such  
45 premises for any purpose other than for sleeping  
46 quarters.

47 Sec. \_\_\_\_\_. Section 123.177, subsection 1, Code  
48 1993, is amended to read as follows:

49 1. A person holding a class "A" wine permit may  
50 manufacture and sell, or sell at wholesale, wine for

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

10 7. Page 5, by striking line 7 and inserting the  
11 following:

12 "Sec. \_\_\_\_ . REPEALS. Sections 123.15 and 123.151,  
13 Code 1993, are repealed."

14 8. Title page, line 6, by inserting after the  
15 word "beer permits," the following: "the  
16 appropriation of moneys collected through civil  
17 penalties, the removal of certain restrictions on the  
18 sale of alcoholic beverages,".

19 9. By renumbering, relettering, or redesignating  
20 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-4004 FILED APRIL 15, 1993

*House Concurred*  
*4/22/93*  
*(P. 1549)*

#-4147

## HOUSE FILE 633

-4147

1 Amend the amendment, H-4004, to House File 633, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. Page 6, by inserting after line 41 the  
5 following:

6 "Sec. \_\_\_\_ . Section 123.47A, subsection 1, Code  
7 1993, is amended to read as follows:

8 1. A person shall not sell, give, or otherwise  
9 supply alcoholic liquor, wine, or beer to any person  
10 knowing or having reasonable cause to believe that the  
11 person is age eighteen, nineteen, or twenty. A person  
12 age eighteen, nineteen, or twenty shall not purchase  
13 or possess alcoholic liquor, wine, or beer. However,  
14 a person age eighteen, nineteen, or twenty may possess  
15 alcoholic liquor, wine, or beer given to the person  
16 within a private home with the knowledge and consent  
17 of the person's parent or guardian, and a person age  
18 eighteen, nineteen, or twenty may handle alcoholic  
19 liquor, wine, and beer during the course of the  
20 person's employment by a liquor control licensee, or  
21 wine or beer permittee. A person, other than a  
22 licensee or permittee, who commits a first offense  
23 under this section commits a scheduled violation of  
24 section 805.8, subsection 10. A person, other than a  
25 licensee or permittee, who commits a second or  
26 subsequent violation of this section, commits a simple  
27 misdemeanor. A licensee or permittee who violates  
28 this section with respect to a person who is age  
29 nineteen or twenty is guilty of a simple misdemeanor  
30 punishable by a fine of not more than fifty dollars.  
31 The penalty provided under this section against a  
32 licensee or permittee who violates this section with  
33 respect to a person who is age nineteen or twenty is  
34 the only penalty which shall be imposed against a  
35 licensee or permittee who violates this section. A  
36 licensee or permittee who violates this section with  
37 respect to a person who is age eighteen commits a  
38 simple misdemeanor, and is subject to the criminal and  
39 civil penalties provided pursuant to sections 123.49  
40 and 123.50 with respect to selling, giving, or  
41 otherwise supplying alcoholic beverages, liquor, wine,  
42 or beer to persons under legal age.

43 Sec. \_\_\_\_ . NEW SECTION. 123.48 PURCHASE OR  
44 ATTEMPTED PURCHASE PROHIBITED BY PERSONS UNDER TWENTY-  
45 ONE YEARS -- PENALTY.

46 1. A person who is under twenty-one years of age  
47 shall not purchase or attempt to purchase alcoholic  
48 liquor, wine, or beer.

49 2. A person who violates this section shall be  
50 fined one hundred dollars for the first offense. A

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1 person who commits a second violation of this section  
2 shall be fined two hundred fifty dollars, and for a  
3 third or subsequent violation of this section, a  
4 person shall be fined five hundred dollars."

5 2. Page 9, line 18, by inserting after the word  
6 "beverages," the following: "and providing a penalty  
7 for the purchase or attempted purchase of alcoholic  
8 beverages by certain persons,."

9 3. By renumbering as necessary.

By IVERSON of Wright

H-4147 FILED APRIL 22, 1993  
WITHDRAWN



HOUSE FILE 633

AN ACT

RELATING TO THE APPROVAL, DISAPPROVAL, SUSPENSION, OR REVOCATION OF LIQUOR CONTROL LICENSES, WINE PERMITS, OR BEER PERMITS, THE IMPOSITION OF CIVIL PENALTIES, AND THE APPEAL OF THE ACTIONS OF LOCAL AUTHORITIES OR THE ADMINISTRATOR OF THE ALCOHOLIC BEVERAGES DIVISION REGARDING LIQUOR CONTROL LICENSES, WINE PERMITS, AND BEER PERMITS, THE APPROPRIATION OF MONEYS COLLECTED THROUGH CIVIL PENALTIES, THE REMOVAL OF CERTAIN RESTRICTIONS ON THE SALE OF ALCOHOLIC BEVERAGES, AND PROVIDING FOR OTHER PROPERLY RELATED MATTERS.

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

Section 1. Section 123.3, subsection 26, paragraphs c and e, Code 1993, are amended to read as follows:

c. ~~Is Notwithstanding paragraph "e",~~ the applicant is a citizen of the United States and a resident of this state, or licensed to do business in this state in the case of a corporation. Notwithstanding paragraph "f e," in the case of a partnership, only one general partner need be a resident of this state.

e. ~~if such person is a corporation, partnership, association, club, or hotel or motel the~~ The requirements of this subsection ~~shall~~ apply to each ~~the~~ following:

- (1) ~~Each~~ of the officers, directors, and partners of such person, ~~and to any~~.
- (2) A person who directly or indirectly owns or controls ten percent or more of any class of stock of such person ~~or~~.
- (3) A person who directly or indirectly has an interest of ten percent or more in the ownership or profits of such person. ~~For the purposes of this provision, an individual and the individual's spouse shall be regarded as one person.~~

Sec. 2. Section 123.16, subsection 2, paragraph b, Code 1993, is amended by striking the paragraph.

Sec. 3. Section 123.19, subsection 4, Code 1993, is amended to read as follows:

4. Any violation of the requirements of this section, except subsection 3, shall subject the violator to the general penalties provided in this chapter and in addition thereto ~~shall be to the general penalties,~~ is grounds for suspension or revocation of the certificate of compliance, after notice and hearing before the ~~division hearing board~~ administrator. Willful failure to comply with requirements which may be imposed under subsection 3 ~~shall be~~ is grounds for suspension or revocation of the certificate of compliance only. ~~Decisions of the hearing board concerning such suspension or revocation shall be binding upon all parties.~~

Sec. 4. Section 123.24, subsection 2, paragraphs a and b, Code 1993, are 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~~ may be suspended under section 123.39. The notice of nonpayment and penalty shall be in a form prescribed by the administrator, and shall be sent by certified mail.

b. If upon notice and hearing under section 123.39 and pursuant to the provisions of chapter 17A concerning a contested case hearing, the administrator determines that the class "E" liquor control licensee failed to satisfy the obligation for which the check was issued within ten days

after the notice of nonpayment and penalty was served on the licensee as provided in paragraph "a" of this subsection, the administrator shall may suspend the licensee's class "E" liquor control license for ~~not-less-than-three-days-but-not-more-than-thirty~~ a period not to exceed ten days.

Sec. 5. Section 123.24, subsection 2, paragraph c, Code 1993, is amended by striking the paragraph.

Sec. 6. Section 123.29, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

123.29 PATENT AND PROPRIETARY PRODUCTS CONTAINING ALCOHOLIC LIQUOR, WINE, OR BEER.

1. This chapter does not prohibit the sale of patent and proprietary medicines, tinctures, food products, extracts, toiletries, perfumes, and similar products, which are not susceptible of use as a beverage, but which contain alcoholic liquor, wine, or beer as one of their ingredients. These products may be sold through ordinary wholesale and retail businesses without a license or permit issued by the division.

2. This chapter does not prohibit a member of the clergy of any religious denomination which uses vinous liquor in its sacramental ceremonies from purchasing, receiving, possessing, and using vinous liquor for sacramental purposes.

Sec. 7. Section 123.30, subsection 1, Code 1993, is amended to read as follows:

1. a. A liquor control license may be issued to any person ~~who-or-whose-officers-in-the-case-of-a-club-or-corporation-or-whose-partners-in-the-case-of-a-partnership~~ are is of good moral character as defined by this chapter.

b. As a 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, members of the department of public safety, representatives of the division and of the department of inspections and appeals, 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 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 premises 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.

c. As a further condition for the issuance of a class "E" liquor control license, the applicant shall post a bond in a sum of not less than five thousand nor more than fifteen thousand dollars as determined on a sliding scale established by the division; however, a bond shall not be required if all purchases of alcoholic liquor from the division by the licensee are made by cash payment or by means that ensure that the division will receive full payment in advance of delivery of the alcoholic liquor.

d. A class "E" liquor control license may be issued to a city council for premises located within the limits of the city if there are no class "E" liquor control licensees operating within the limits of the city and no other applications for a class "E" license for premises located within the limits of the city at the time the city council's application is filed. If a class "E" liquor control license is subsequently issued to a private person for premises

located within the limits of the city, the city council shall surrender its license to the division within one year of the date that the class "E" liquor control licensee begins operating, liquidate any remaining assets connected with the liquor store, and cease operating the liquor store.

Sec. 8. Section 123.30, subsection 3, paragraph d, Code 1993, is amended to read as follows:

d. CLASS "D".

(1) A class "D" liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five persons or more operating in inland or boundary waters, and shall authorize the holder to sell or furnish alcoholic beverages, wine, and beer to passengers for consumption only on trains, watercraft as described in this section, or aircraft, respectively. Each license is valid throughout the state. Only one license is required for all trains, watercraft, or aircraft operated in the state by the licensee. However, if a watercraft is an excursion gambling boat licensed under chapter 99F, the owner shall obtain a separate class "D" liquor control license for each excursion gambling boat operating in the waters of this state.

(2) A class "D" liquor control licensee who operates a train or a watercraft intrastate only, or an excursion gambling boat licensed under chapter 99F, shall purchase alcoholic liquor from a class "E" liquor control licensee only, wine from a class "A" wine permittee or a class "B" wine permittee who also holds a class "E" liquor control license only, and beer from a class "A" beer permittee only.

Sec. 9. Section 123.31, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Verified except as otherwise provided in section 123.35, verified applications for the original issuance or the renewal of liquor control licenses shall be filed at such the time and in such the number of copies as the administrator shall

prescribe, on forms prescribed by the administrator, and ~~except as provided in section 123.35,~~ shall set forth under oath the following information:

Sec. 10. Section 123.32, subsections 2, 4, and 6, Code 1993, are amended to read as follows:

2. ACTION BY LOCAL AUTHORITIES. The local authority shall either approve or disapprove the issuance of a liquor control license, retail wine permit, or retail beer permit, shall endorse its approval or disapproval on the application and shall forward the application along with the necessary fee and bond, if required, to the division. ~~Upon the initial application for a liquor control license, retail wine permit, or retail beer permit, the fact that the local authority determines that no liquor control license, retail wine permit, or retail beer permit shall be issued shall not be held to be arbitrary, capricious, or without reasonable cause.~~ There is no limit upon the number of liquor control licenses, retail wine permits, or retail beer permits which may be approved for issuance by local authorities.

4. ACTION BY ADMINISTRATOR.

a. Upon receipt of an application having been disapproved by the local authority, the administrator shall ~~disapprove the application~~ so notify the applicant that the applicant may appeal the disapproval of the application to the administrator. The applicant shall be notified by certified mail, and return the application, the fee, and any bond shall be returned to the applicant.

b. Upon receipt of an application having been approved by the local authority, the division shall make ~~such an~~ investigation as the administrator deems necessary to determine that the applicant complies with all requirements for holding a license or permit, and may require the applicant to appear to be examined under oath ~~regarding any matters pertinent to the application, in which case to demonstrate that the applicant complies with all of the requirements to~~

hold a license or permit. If the administrator requires the applicant to appear and to testify under oath, a record shall be made of all testimony or evidence and the same record shall become a part of the application. The administrator may appoint a member of the division or may request an administrative law judge of the department of inspections and appeals to receive the testimony under oath and evidence, and to issue a proposed decision to approve or disapprove the application for a license or permit. The administrator may affirm, reverse, or modify the proposed decision to approve or disapprove the application for the license or permit. If the application is approved by the administrator, the license or permit ~~applied for~~ shall be issued. If the application is disapproved by the administrator, the applicant and the appropriate local authority shall be so notified by certified mail, and the fee and any bond returned to the applicant.

6. JUDICIAL REVIEW. ~~Judicial~~ The applicant or the local authority may seek judicial review of the action of the division hearing board may be sought administrator in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of said the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county ~~wherein~~ where the premises covered by the application are situated.

~~Where the hearing board on an appeal by an applicant finds that the local authority acted arbitrarily, capriciously, or without reasonable cause in disapproving an application and the administrator issues a license or permit, the local authority may seek judicial review of such decision according to the terms of the Iowa administrative procedure Act within thirty days.~~

Sec. 11. Section 123.32, subsection 5, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

5. APPEAL TO ADMINISTRATOR. An applicant for a liquor control license, wine permit, or beer permit may appeal from the local authority's disapproval of an application for a license or permit to the administrator. In the appeal the applicant shall be allowed the opportunity to demonstrate in an evidentiary hearing conducted pursuant to chapter 17A that the applicant complies with all of the requirements for holding the license or permit. 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 evidentiary hearing and to render a proposed decision to approve or disapprove the issuance of the license or permit. The administrator may affirm, reverse, or modify the proposed decision. If the administrator determines that the applicant complies with all of the requirements for holding a license or permit, the administrator shall order the issuance of the license or permit. If the administrator determines that the applicant does not comply with the requirements for holding a license or permit, the administrator shall disapprove the issuance of the license or permit.

Sec. 12. Section 123.32, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. SUSPENSION BY LOCAL AUTHORITY. A liquor control licensee or a wine or beer permittee whose license or permit has been suspended or revoked or a civil penalty imposed by a local authority for a violation of this chapter or suspended by a local authority for violation of a local ordinance may appeal the suspension, revocation, or civil penalty to the administrator. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to hear the appeal which shall be conducted in accordance with chapter 17A and to issue a proposed decision. The administrator may review the proposed decision upon the

motion of a party to the appeal or upon the administrator's own motion in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A liquor control licensee, wine or beer permittee, or a local authority aggrieved by a decision of the administrator may seek judicial review of the decision pursuant to chapter 17A.

Sec. 13. Section 123.35, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Such The application, accompanied by the necessary fee and bond, if required, shall be filed in the same manner as is provided for filing the initial application. However, for the renewal of a class "E" license, the simplified application form for renewal, accompanied by the necessary fee and bond if required, shall be filed directly with the administrator without the endorsement of local authorities if all of the following conditions are met: the applicant's license has not been suspended or revoked since the preceding license was issued; a civil penalty has not been imposed against the applicant under this chapter since the preceding license was issued; an administrative proceeding is not pending against the applicant to suspend or revoke the applicant's license or to impose a civil penalty under this chapter; and the applicant has not been convicted of a violation of this chapter since the preceding license was issued.

Sec. 14. Section 123.36, subsection 1, Code 1993, is amended by striking the subsection.

Sec. 15. Section 123.37, unnumbered paragraph 5, Code 1993, is amended by striking the unnumbered paragraph.

Sec. 16. Section 123.39, subsection 1, Code 1993, is amended to read as follows:

1. a. Any The administrator or the local authority may suspend a liquor control license, wine permit, or beer permit issued under this chapter may, after notice in writing to the license or permit holder and reasonable opportunity for

hearing, and subject to section 123.50 where applicable, be suspended for a period not to exceed one year or revoked, 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 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 decision. Upon the motion of a party to the hearing or upon the administrator's own motion, the administrator may review the proposed decision in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A liquor control licensee, wine, or beer permittee aggrieved by a decision of the administrator may seek judicial review of the administrator's decision in accordance with chapter 17A.

b. A license or permit issued under this chapter may be suspended or revoked, or a civil penalty may be imposed on the license or permit holder by the local authority or the administrator for any of the following causes:

a. (1) Misrepresentation of any material fact in the application for the license or permit.

b. (2) Violation of any of the provisions of this chapter.

c. (3) Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any wine or beer permit, which change was not previously reported to and approved by the local authority and the division.

d. (4) An event which would have resulted in disqualification from receiving the license or permit when originally issued.

e. (5) Any sale, hypothecation, or transfer of the license or permit.

f7 (6) The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under this chapter when due.

c. A criminal conviction is not a prerequisite to suspension, revocation, or imposition of a civil penalty pursuant to this section. A local authority which acts pursuant to this section or section 123.32 shall notify the division in writing of the action taken, and shall notify the licensee or permit holder of the right to appeal a suspension, revocation, or imposition of a civil penalty to the division. Civil penalties imposed and collected by the local authority under this section shall be retained by the local authority. Civil penalties imposed and collected by the division under this section shall be retained by the division.

Sec. 17. Section 123.39, subsection 4, Code 1993, is amended to read as follows:

4. 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. 18. Section 123.50, subsection 3, unnumbered paragraph 1 and paragraphs a, c, and d, Code 1993, are amended to read as follows:

If any licensee, wine permittee, beer permittee, or employee of a licensee or permittee is convicted of a violation of section 123.49, subsection 2, paragraph "h", or if a retail wine or beer permittee is convicted of a violation of paragraph "i" of that subsection, the administrator or local authority shall, in addition to the other criminal penalties fixed for such violations by this section, assess a civil penalty 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 for a violation of section 123.49, subsection 2, paragraph "h", or this subsection will result in automatic suspension of the license or permit for a period of fourteen days.

c. Upon a third conviction within a period of five three years, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of sixty days.

d. Upon a fourth conviction within a period of five three years, the violator's liquor control license, wine permit, or beer permit shall be revoked.

Sec. 19. Section 123.53, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding section 8.33, civil penalties imposed and collected by the division shall not revert to the general fund of the state. The moneys from the civil penalties are appropriated for use by the division for the purposes of providing educational programs, information and publications for alcoholic beverage licensees and permittees, local authorities, and law enforcement agencies

regarding the laws and rules which govern the alcoholic beverages industry, and for promoting compliance with alcoholic beverage laws and rules.

Sec. 20. Section 123.95, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

123.95 PREMISES MUST BE LICENSED -- EXCEPTION AS TO CONVENTIONS AND SOCIAL GATHERINGS.

1. A person shall not allow the dispensing or consumption of alcoholic liquor, except wines and beer, in any establishment unless the establishment is licensed under this chapter or except as otherwise provided in this section. The holder of an annual class "B" liquor control license or an annual class "C" liquor control license may act as the agent of a private social host for the purpose of providing and serving alcoholic liquor, wine, and beer as part of a food catering service for a private social gathering in a private place. The holder of an annual special class "C" liquor control license shall not act as the agent of a private social host for the purpose of providing and serving wine and beer as part of a food catering service for a private social gathering in a private place. The private social host or the licensee shall not solicit donations in payment for the food or alcoholic beverages from the guests, and the alcoholic beverages and food shall be served without cost to the guests. Section 123.92 does not apply to a liquor control licensee who acts in accordance with this section when the liquor control licensee is providing and serving food and alcoholic beverages as an agent of a private social host at a private social gathering in a private place which is not on the licensed premises.

2. An applicant for a class "B" liquor control license or class "C" liquor control license shall state on the application for the license that the licensee intends to engage in catering food and alcoholic beverages for private social gatherings and the catering privilege shall be noted on

the license or permit. A licensee who engages in catering food and alcoholic beverages for private social gatherings shall maintain a record on the licensed premises which includes the name and address of the host of the private social gathering, and the date for which catering was provided. The record maintained pursuant to this section shall be open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee.

3. However, bona fide conventions or meetings may bring their own legal liquor onto the licensed premises if the liquor is served to delegates or guests without cost. All other provisions of this chapter shall be applicable to such premises. The provisions of this section shall have no application to private social gatherings of friends or relatives in a private home or private place which is not of a commercial nature nor where goods or services may be purchased or sold nor any charge or rent or other thing of value is exchanged for the use of such premises for any purpose other than for sleeping quarters.

Sec. 21. Section 123.177, subsection 1, Code 1993, 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 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 123.297, 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. 22. REPEALS. Sections 123.15 and 123.151, Code 1993, are repealed.

Sec. 23. APPEAL AFFECTED. This Act applies to administrative appeals of decisions of the administrator of

the alcoholic beverages division of the department of commerce  
or a local authority which are filed on or after July 1, 1993.

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HAROLD VAN MAANEN  
Speaker of the House

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LEONARD L. BOSWELL  
President of the Senate

I hereby certify that this bill originated in the House and  
is known as House File 633, Seventy-fifth General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved May 3, 1993

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TERRY E. BRANSTAD  
Governor