

SENATE FILE 2319
BY IVERSON

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

A BILL FOR

1 An Act relating to the private distribution and wholesale sale of
2 alcoholic liquor to licensed retailers, providing for a liquor
3 markup tax, providing for the licensing of liquor wholesalers,
4 providing for other properly related matters, and subjecting
5 violators to a penalty.

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

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S.F. 2319

1 Section 1. Section 123.3, subsection 36, Code 1995, is
2 amended to read as follows:

3 36. "Wholesaler" means any person, other than a distiller
4 or rectifier of alcoholic liquor, vintner, brewer or bottler
5 of beer or wine, who shall sell, barter, exchange, offer for
6 sale, have in possession with intent to sell, deal or traffic
7 in alcoholic liquor, wine, or beer. A wholesaler shall not
8 sell for consumption upon the premises.

9 Sec. 2. Section 123.19, subsections 1 and 4, Code 1995,
10 are amended to read as follows:

11 1. Any manufacturer, distiller or importer of alcoholic
12 beverages shipping, selling, or having alcoholic beverages
13 brought into this state for resale by the state or for
14 wholesale as provided in section 123.42A shall, as a condition
15 precedent to the privilege of so trafficking in alcoholic
16 liquors in this state, annually make application for and hold
17 a distiller's certificate of compliance which shall be issued
18 by the administrator for that purpose. No brand of alcoholic
19 liquor shall be sold by the division in this state unless the
20 manufacturer, distiller, importer, and all other persons
21 participating in the distribution of that brand in this state
22 have obtained a certificate. The certificate of compliance
23 shall expire at the end of one year from the date of issuance
24 and shall be renewed for a like period upon application to the
25 administrator unless otherwise suspended or revoked for cause.
26 Each application for a certificate of compliance or renewal
27 shall be made in a manner and upon forms prescribed by the
28 administrator and shall be accompanied by a fee of fifty
29 dollars payable to the division. However, the fee requirement
30 as provided in this subsection need not apply to a
31 manufacturer, distiller, or importer who ships or sells in
32 this state no more than eleven gallons or its case equivalent
33 during any fiscal year as a result of "special orders" which
34 might be placed, as defined and allowed by divisional rules
35 adopted under this chapter.

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

10 Sec. 3. Section 123.19, Code 1995, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 7. Each holder of a certificate of
13 compliance shall report monthly to the division on forms
14 provided for that purpose, a list of all alcoholic liquors by
15 package size, kind, and quantity sold to licensed wholesalers
16 in this state and a list of the wholesalers who received the
17 size, kind, and quantity of alcoholic liquors purchased.
18 Prior to shipment, the certificate holder shall post with the
19 division the F.O.B. or dock price of the alcoholic liquor
20 which shall be the same as the price would be if sold to the
21 division. The division shall establish the markup that shall
22 be remitted to the division upon sale of the alcoholic liquor
23 to licensed retailers for both on-premises and off-premises
24 consumption. The division may also sell liquor to wholesalers
25 for resale to licensed retailers. The division shall bill the
26 alcoholic liquor cost but shall not collect the established
27 markup on alcoholic liquor to wholesalers until the alcoholic
28 liquor is sold at wholesale to retailers. All liquor
29 wholesalers shall sell only those brands of alcoholic liquor
30 which are manufactured, bottled, distilled, rectified,
31 shipped, or imported by a person holding a current distiller's
32 certificate of compliance. All alcoholic liquor shipped into
33 this state or acquired from the division shall come to rest in
34 a warehouse located in this state prior to its resale at
35 wholesale. The warehouse of the wholesaler shall be the

1 licensed premises. A holder of a certificate of compliance or
2 the holder's agent, or a liquor wholesaler or the wholesaler's
3 agent shall not discriminate between retail licensees
4 authorized to sell alcoholic liquor for consumption either on
5 premises or off premises. A holder of a distiller's
6 certificate of compliance or the distiller's agent shall not
7 engage in the business of selling alcoholic liquor to licensed
8 wholesalers by discriminating as to the price at which goods
9 are offered between the wholesalers.

10 Sec. 4. Section 123.30, subsection 3, paragraph a, b, c,
11 and e, Code 1995, are amended to read as follows:

12 a. CLASS "A". A class "A" liquor control license may be
13 issued to a club and shall authorize the holder to purchase
14 alcoholic liquors from class "E" liquor control licensees or
15 licensed wholesalers only, wine from class "A" wine permittees
16 or class "B" wine permittees who also hold class "E" liquor
17 control licenses only, and native wines from native wine
18 manufacturers, and to sell liquors, wine, and beer to bona
19 fide members and their guests by the individual drink for
20 consumption on the premises only.

21 b. CLASS "B". A class "B" liquor control license may be
22 issued to a hotel or motel and shall authorize the holder to
23 purchase alcoholic liquors from class "E" liquor control
24 licensees or licensed wholesalers only, wine from class "A"
25 wine permittees or class "B" wine permittees who also hold
26 class "E" liquor control licenses only, and native wines from
27 native wine manufacturers, and to sell liquors, wine, and beer
28 to patrons by the individual drink for consumption on the
29 premises only. However, beer may also be sold for consumption
30 off the premises. Each license shall be effective throughout
31 the premises described in the application.

32 c. CLASS "C". A class "C" liquor control license may be
33 issued to a commercial establishment but must be issued in the
34 name of the individuals who actually own the entire business
35 and shall authorize the holder to purchase alcoholic liquors

1 from class "E" liquor control licensees or licensed
2 wholesalers only, wine from class "A" wine permittees or class
3 "B" wine permittees who also hold class "E" liquor control
4 licenses only, and native wines from native wine
5 manufacturers, and to sell liquors, wine, and beer to patrons
6 by the individual drink for consumption on the premises only.
7 However, beer may also be sold for consumption off the
8 premises.

9 A special class "C" liquor control license may be issued
10 and shall authorize the holder to purchase wine from class "A"
11 wine permittees or class "B" wine permittees who also hold
12 class "E" liquor control licenses only, and to sell wine and
13 beer to patrons by the individual drink for consumption on the
14 premises only. However, beer may also be sold for consumption
15 off the premises. The license issued to holders of a special
16 class "C" license shall clearly state on its face that the
17 license is limited.

18 e. CLASS "E". A class "E" liquor control license may be
19 issued and shall authorize the holder to purchase alcoholic
20 liquor from the division or licensed wholesalers only and to
21 sell the alcoholic liquor to patrons for consumption off the
22 licensed premises and to other liquor control licensees. A
23 class "E" license shall not be issued to premises at which
24 gasoline is sold. A holder of a class "E" liquor control
25 license may hold other retail liquor control licenses or
26 retail wine or beer permits, but the premises licensed under a
27 class "E" liquor control license shall be separate from other
28 licensed premises, though the separate premises may have a
29 common entrance. However, the holder of a class "E" liquor
30 control license may also hold a class "B" wine or class "C"
31 beer permit or both for the premises licensed under a class
32 "E" liquor control license.

33 The division may issue a class "E" liquor control license
34 for premises covered by a liquor control license or wine or
35 beer permit for on-premise consumption, if the premises are in

1 a county having a population under nine thousand five hundred
2 in which no other class "E" liquor control license has been
3 issued by the division, and no other application for a class
4 "E" license has been made within the previous twelve
5 consecutive months.

6 Sec. 5. NEW SECTION. 123.42A WHOLESALER'S LICENSE.

7 1. Upon application in the prescribed form and accompanied
8 by a fee of two thousand dollars and subject to the provisions
9 of this chapter, the administrator shall grant a license,
10 valid for a one-year period after date of issuance, to a
11 qualifying wholesaler of good moral character, which shall
12 allow the wholesaler to purchase alcoholic liquor from
13 manufacturers either within or without the state for the
14 purpose of selling to the division and customers of the
15 wholesaler engaged in the sale of alcoholic liquor at retail
16 outside of the state, and to other licensed wholesalers and
17 retail liquor licensees licensed to sell liquor for
18 consumption either on premises or off premises. Alcoholic
19 liquor shall not be sold for consumption on the licensed
20 premises of the wholesaler.

21 2. A wholesaler may purchase alcoholic liquor from the
22 division for retail sale to class "A", "B", "C", "D", and "E"
23 liquor control licensees. The division shall charge a
24 wholesaler the same price for alcoholic liquor sold to class
25 "E" liquor control licensees, including the markup required in
26 section 123.24, subsection 4, less a cost computed by the
27 division which the division would have had to assume if
28 alcoholic liquor had been stored and delivered to class "E"
29 licensees by the division. Wholesalers shall sell only that
30 alcoholic liquor upon which the appropriate markup has been
31 paid to the division.

32 3. A licensed wholesaler shall keep proper books of
33 account and records showing the amount of alcoholic liquor
34 sold by the wholesaler which shall be open to inspection by
35 the administrator at all times. Liquor control licensees

1 purchasing alcoholic liquor from licensed wholesalers shall
2 keep proper books of account and records showing each purchase
3 of alcoholic liquor made by the licensee, and the date and the
4 amount of each purchase and the name of the person from whom
5 each purchase was made. The books of account and records
6 shall be open to inspection by the administrator and agents of
7 the division of beer, wine, and liquor law enforcement of the
8 department of public safety during the normal business hours
9 of the licensee.

10 4. A licensed wholesaler who has more than one place of
11 business shall have a separate license for each separate place
12 of business maintained by the licensee where liquor is stored,
13 warehoused, or sold. A licensed wholesaler shall not store
14 alcoholic liquor overnight in premises which are not licensed
15 by the division. A licensed wholesaler shall deliver liquor
16 to all classes of retail liquor licensees licensed for both
17 on-premises and off-premises consumption as provided in this
18 chapter. Retail liquor licensees shall accept delivery of
19 liquor at their licensed premises only from licensed
20 wholesalers. Delivery of alcoholic liquor from an unlicensed
21 premise to a licensed premise at retail or from one retail
22 licensed premise to another is prohibited, except that a class
23 "E" liquor control licensee may sell and deliver liquor to a
24 liquor control licensee licensed to sell alcoholic liquor for
25 consumption on the premises where licensed only. A class "E"
26 liquor licensee shall not sell or deliver alcoholic liquor to
27 another class "E" liquor control licensee even when there is a
28 common ownership of all the premises by one class of retail
29 liquor licensee. A retail liquor control licensee shall not
30 hold an interest in a licensed wholesaler's business either
31 directly or indirectly. Except as otherwise provided in this
32 chapter, a wholesale liquor license shall be issued to a
33 person who complies with the following:

34 a. Submits a written application for the license and
35 states on the application under oath all of the following:

1 (1) The name and place of residence of the applicant and
2 the length of time the applicant has lived at the place of
3 residence.

4 (2) That the applicant is a citizen of the state of Iowa,
5 or if a corporation, that the applicant is authorized to do
6 business in Iowa.

7 (3) The place of birth of the applicant, and if the
8 applicant is a naturalized citizen, the time and place of
9 naturalization, or if a corporation, the state of incor-
10 poration.

11 (4) The location of the premises in Iowa where the
12 applicant intends to use the license.

13 (5) The name of the owner of the premises, and if that
14 owner is not the applicant, that the applicant is the actual
15 lessee of the premises.

16 b. Establishes all of the following:

17 (1) That the applicant meets the test of good moral
18 character.

19 (2) That the premises where the applicant intends to use
20 the license conform to all applicable laws, health regula-
21 tions, and fire regulations, and constitute a safe and proper
22 place or building.

23 Sec. 6. NEW SECTION. 123.42B LIQUOR MARKUP TAX.

24 In addition to the annual license fee to be paid by all
25 wholesale liquor licensees under this chapter, there shall be
26 levied and collected from the licensees on all liquor manu-
27 factured for sale or sold in this state to wholesalers and all
28 liquor imported into this state for sale at wholesale, to the
29 division and sold in this state at wholesale, a markup as
30 established by the alcoholic beverages division as provided
31 for in this chapter. However, no markup shall be levied or
32 collected on liquor shipped outside this state by a liquor
33 wholesaler or sold by one liquor wholesaler to another liquor
34 wholesaler. The markup shall not exceed the markup policy as
35 established by the division on sales by the division to

1 wholesalers. Licensed wholesalers shall pick up from the
2 division warehouse or other licensed warehouse as designated
3 by the division, alcoholic liquor for resale to licensed
4 retailers during hours as established by the division and all
5 liquor purchased for resale by wholesalers or retailers shall
6 be paid by certified check prior to or at the time of
7 delivery.

8 Sec. 7. TRANSITION. On and after January 1, 1997, the
9 alcoholic beverages division of the department of commerce
10 shall no longer warehouse, sell, or deliver alcoholic liquor.
11 The division shall continue to establish and collect the
12 markup on alcoholic liquor as provided in section 123.42B.

13 EXPLANATION

14 The bill provides for the sale of alcoholic liquor at the
15 wholesale level by licensed wholesalers. The annual license
16 fee would be \$2,000. The bill allows liquor retailers li-
17 censed for on-premises consumption to purchase alcoholic
18 liquor directly from wholesalers or from class "E" licensed
19 retailers as at present. The retailers are not now allowed to
20 purchase or receive delivery from the state.

21 After January 1, 1997, the state of Iowa will no longer be
22 permitted to warehouse or deliver alcoholic beverages. The
23 state will continue to establish the markup on alcoholic
24 liquor and collect the markup as a tax on the sales when sold
25 by the wholesaler to retailers on a monthly basis similar to
26 the way in which beer and wine excise taxes are collected.

27 Class "E" liquor licensees will be able to purchase liquor
28 from licensed wholesalers or the state as they presently do
29 until January 1, 1997, when all liquor sales will revert to
30 private wholesalers.

31 A violator of the provisions of chapter 123, if another
32 penalty is not provided, is guilty of a serious misdemeanor
33 under section 123.90.

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