

MAR 13 1997
LOCAL GOVERNMENT

HOUSE FILE 604
BY NELSON

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

A BILL FOR

1 An Act relating to the renewal and suspension or revocation of
2 liquor control licenses and wine and beer permits by local
3 authorities.

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

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HF 604

1 Section 1. Section 123.32, subsections 5, 6, and 7, Code
2 1997, are amended to read as follows:

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

24 6. JUDICIAL REVIEW. The applicant for a new license or
25 permit or the local authority may seek judicial review of the
26 action of the administrator in accordance with the terms of
27 the Iowa administrative procedure Act. Notwithstanding the
28 terms of the Iowa administrative procedure Act, petitions for
29 judicial review may be filed in the district court of the
30 county where the premises covered by the application are
31 situated. The applicant for a renewal of a license or permit
32 may seek judicial review of a second disapproval by the local
33 authority in the district court of the county where the
34 premises covered by the application are located.

35 7. SUSPENSION BY LOCAL AUTHORITY. A liquor control

1 licensee or a wine or beer permittee whose license or permit
2 has been suspended or revoked or a civil penalty imposed by a
3 local authority for a violation of this chapter or suspended
4 by a local authority for violation of a local ordinance may
5 appeal the suspension, revocation, or civil penalty to the
6 administrator. The administrator may appoint a member of the
7 division or may request an administrative law judge from the
8 department of inspections and appeals to hear the appeal which
9 shall be conducted in accordance with chapter 17A and to issue
10 a proposed decision. The administrator may review the
11 proposed decision upon the motion of a party to the appeal or
12 upon the administrator's own motion in accordance with chapter
13 17A. Upon review of the proposed decision, the administrator
14 may affirm, ~~reverse, or modify~~ the proposed decision or
15 recommend that the local authority reverse its decision. A
16 ~~liquor control licensee, wine or beer permittee, or a local~~
17 ~~authority aggrieved by a decision of the administrator may~~
18 ~~seek judicial review of the decision pursuant to chapter 17A.~~
19 The local authority shall reconsider the suspension,
20 revocation, or civil penalty, and affirm or reverse its
21 action. A liquor control licensee or wine or beer permittee
22 may seek judicial review of the decision of the local
23 authority in the district court of the county where the
24 premises subject to the decision are located.

25 Sec. 2. Section 123.32, Code 1997, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 5A. APPEAL TO ADMINISTRATOR -- RENEWAL
28 LICENSE OR PERMIT. An applicant for the renewal of a liquor
29 control license, wine permit, or beer permit may appeal from
30 the local authority's disapproval of an application for a
31 license or permit to the administrator. In the appeal the
32 applicant shall be allowed the opportunity to demonstrate in
33 an evidentiary hearing conducted pursuant to chapter 17A that
34 the applicant complies with all of the requirements for
35 holding the license or permit. The administrator may appoint

1 a member of the division or may request an administrative law
2 judge from the department of inspections and appeals to
3 conduct the evidentiary hearing and to render a proposed
4 decision to approve or disapprove the issuance of the license
5 or permit. The administrator may affirm the proposed decision
6 or recommend that the local authority reverse its decision.
7 If the administrator determines that the applicant complies
8 with all of the requirements for holding a license or permit,
9 the administrator shall notify, by certified mail, the local
10 authority of the administrator's finding. The local authority
11 shall reconsider the application based on the administrator's
12 findings and its own findings and approve or disapprove the
13 application. The second disapproval by the local authority
14 shall be the final administrative decision on the application.
15 If the administrator determines that the applicant does not
16 comply with the requirements for holding a license or permit,
17 the administrator shall disapprove the issuance of the license
18 or permit.

19 EXPLANATION

20 This bill provides that applications for a renewal of
21 liquor control licenses and wine and beer permits which are
22 disapproved by a city or county are subject to reconsideration
23 by the city or county if the same application is recommended
24 to be approved by the administrator of the alcoholic beverages
25 division of the department of commerce. If the city or county
26 disapproves the application upon reconsideration, the license
27 or permit is denied. The decision may be appealed to the
28 district court.

29 The bill also provides that a suspension or revocation of
30 an alcoholic beverage license or permit or a civil penalty
31 imposed by a city or county is subject to reconsideration by
32 the city or county if, upon appeal, the administrator of the
33 alcoholic beverages division recommends reversal. If the city
34 or county reaffirms its previous action, the action of the
35 city or county may be appealed to the district court.

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