

APR 11 2003
WAYS & MEANS CALENDAR

HOUSE FILE 682
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 651)
(SUCCESSOR TO HSB 173)

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

A BILL FOR

1 An Act relating to wine by providing for native wine permits,
2 providing wine gallonage tax revenue to support grape and wine
3 development, providing for fees, and providing an effective
4 date and retroactive applicability.

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

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HF 682

1 Section 1. Section 123.3, Code 2003, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 22A. "Native wine" means wine
4 manufactured in this state.

5 Sec. 2. Section 123.3, subsection 30, Code 2003, is
6 amended to read as follows:

7 30. "Retail wine permit" means a class "B" wine permit,
8 class "B" native wine permit, or class "C" native wine permit
9 issued under this chapter.

10 Sec. 3. Section 123.32, subsection 1, Code 2003, is
11 amended to read as follows:

12 1. FILING OF APPLICATION. An application for a class "A",
13 class "B", class "C", or class "E" liquor control license, for
14 a retail beer permit as provided in sections 123.128 and
15 123.129, or for a class "B", class "B" native, or class "C"
16 native retail wine permit as provided in section ~~123.176~~
17 123.178, 123.178A, or 123.178B, accompanied by the necessary
18 fee and bond, if required, shall be filed with the appropriate
19 city council if the premises for which the license or permit
20 is sought are located within the corporate limits of a city,
21 or with the board of supervisors if the premises for which the
22 license or permit is sought are located outside the corporate
23 limits of a city. An application for a class "D" liquor
24 control license and for a class "A" beer or class "A" wine
25 permit, accompanied by the necessary fee and bond, if
26 required, shall be filed with the division, which shall
27 proceed in the same manner as in the case of an application
28 approved by local authorities.

29 Sec. 4. Section 123.56, subsection 1, Code 2003, is
30 amended to read as follows:

31 1. Subject to rules of the division, manufacturers of
32 native wines from grapes, cherries, other fruits or other
33 fruit juices, vegetables, vegetable juices, dandelions,
34 clover, honey, or any combination of these ingredients,
35 holding a class "A" wine permit as required by this chapter,

1 may sell, keep, or offer for sale and deliver the wine. Sales
2 may be made at retail for off-premises consumption when sold
3 on the premises of the manufacturer, or in a retail
4 establishment operated by the manufacturer ~~which-is-no-closer~~
5 ~~than-five-miles-from-an-existing-native-winery~~. Sales may
6 also be made to class "A" or retail wine permittees or liquor
7 control licensees as authorized by the class "A" wine permit.

8 Sec. 5. Section 123.56, Code 2003, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 6. Notwithstanding any other provision of
11 this chapter, a person engaged in the business of
12 manufacturing native wine may sell native wine at retail for
13 consumption on the premises of the manufacturing facility by
14 applying for a class "C" native wine permit as provided in
15 section 123.178B. A manufacturer of native wine may be
16 granted not more than one class "C" native wine permit.

17 Sec. 6. Section 123.173, Code 2003, is amended to read as
18 follows:

19 123.173 WINE PERMITS -- CLASSES -- AUTHORITY.

20 Permits exclusively for the sale or manufacture and sale of
21 wine shall be divided into ~~two~~ four classes, and shall be
22 known as class "A", or "B", "B" native, or "C" native wine
23 permits.

24 A class "A" wine permit allows the holder to manufacture
25 and sell, or sell at wholesale, in this state, wine as defined
26 in section 123.3, subsection 37. The holder of a class "A"
27 wine permit may manufacture in this state wine having an
28 alcoholic content greater than seventeen percent by weight for
29 shipment outside this state. All class "A" premises shall be
30 located within the state. A class "B" or class "B" native
31 wine permit allows the holder to sell wine at retail for
32 consumption off the premises. A class "B" or class "B" native
33 wine permittee who also holds a class "E" liquor control
34 license may sell wine to class "A", class "B", and class "C"
35 liquor control licensees for resale for consumption on the

1 premises. ~~A class "B" wine permittee who also holds a class~~
2 ~~"E" liquor control license may sell wine to class "A", class~~
3 ~~"B", and class "C" liquor control licensees~~ Such wine sales
4 shall be in quantities of less than one case of any wine brand
5 but not more than one such sale shall be made to the same
6 liquor control licensee in a twenty-four hour period. A class
7 "B" or class "B" native wine permittee shall not sell wine to
8 other class "B", or class "B" native wine permittees. A class
9 "C" native wine permit allows the holder to sell wine for
10 consumption on or off the premises.

11 A class "A" wine permittee shall be required to deliver
12 wine to a ~~class "B"~~ retail wine permittee, and a ~~class "B"~~
13 retail wine permittee shall be required to accept delivery of
14 wine from a class "A" wine permittee, only at the licensed
15 premises of the ~~class "B"~~ retail wine permittee. Except as
16 specifically permitted by the division upon good cause shown,
17 delivery or transfer of wine from an unlicensed premises to a
18 licensed "B" retail wine permittee's premises, or from one
19 licensed "B" retail wine permittee's premises to another
20 licensed "B" retail wine permittee's premises, even if there
21 is common ownership of all of the premises by one ~~class "B"~~
22 retail permittee, is prohibited. A class "B" or class "B"
23 native wine permittee who also holds a class "E" liquor
24 control license shall keep and maintain records for each sale
25 of wine to liquor control licensees showing the name of the
26 establishment to which wine was sold, the date of sale, and
27 the brands and number of bottles sold to the liquor control
28 licensee.

29 When a class "B" or class "B" native wine permittee who
30 also holds a class "E" liquor control license sells wine to a
31 class "A", class "B", or class "C" liquor control licensee,
32 the liquor control licensee shall sign a report attesting to
33 the purchase. The class "B" or class "B" native wine
34 permittee who also holds a class "E" liquor control license
35 shall submit to the division, on forms supplied by the

1 division, not later than the tenth of each month a report
2 stating each sale of wine to class "A", class "B", and class
3 "C" liquor control licensees during the preceding month, the
4 date of each sale, and the brands and numbers of bottles with
5 each sale. A class "B" permittee who holds a class "E" liquor
6 control license may sell to class "A", class "B", or class "C"
7 liquor control licensees only if the licensed premises of the
8 liquor control licensee is located within the geographic
9 territory of the class "A" wine permittee from which the wine
10 was originally purchased by the class "B" wine permittee.

11 Sec. 7. Section 123.174, Code 2003, is amended to read as
12 follows:

13 123.174 ISSUANCE OF WINE PERMITS.

14 The administrator shall issue ~~class-"A"-and-"B"~~ wine
15 permits as provided in this chapter, and may suspend or revoke
16 a wine permit for cause as provided in this chapter.

17 Sec. 8. Section 123.175, Code 2003, is amended to read as
18 follows:

19 123.175 ~~CLASS-"A"~~ APPLICATION CONTENTS.

20 Except as otherwise provided in this chapter, a class "A"
21 or retail wine permit shall be issued to a person who complies
22 with all of the following:

23 1. Submits a written application for the permit and states
24 on the application under oath:

25 a. The name and place of residence of the applicant and
26 the length of time the applicant has lived at the place of
27 residence.

28 b. That the applicant is a citizen of the state of Iowa,
29 or if a corporation, that the applicant is authorized to do
30 business in Iowa.

31 c. The place of birth of the applicant, and if the
32 applicant is a naturalized citizen, the time and place of
33 naturalization, or if a corporation, the state of
34 incorporation.

35 d. The location of the premises where the applicant

1 intends to use the permit.

2 e. The name of the owner of the premises, and if that
3 owner is not the applicant, that the applicant is the actual
4 lessee of the premises.

5 2. Establishes all of the following:

6 a. That the applicant meets the test of good moral
7 character as provided in section 123.3, subsection 26.

8 b. That the premises where the applicant intends to use
9 the permit conform to all applicable laws, health regulations,
10 and fire regulations, and constitute a safe and proper place
11 or building.

12 3. Submits, in the case of a class "A" wine permit, a bond
13 in the amount of five thousand dollars in the form prescribed
14 and furnished by the division with good and sufficient
15 sureties to be approved by the division conditioned upon
16 compliance with this chapter.

17 4. Consents to inspection as required in section 123.30,
18 subsection 1.

19 Sec. 9. Section 123.177, subsection 1, Code 2003, is
20 amended to read as follows:

21 1. A person holding a class "A" wine permit may
22 manufacture and sell, or sell at wholesale, wine for
23 consumption off the premises. Sales within the state may be
24 made only to persons holding a class "A" or "B" wine permit
25 and to persons holding a ~~class-"A",-"B",-"C"-or-"D"~~ retail
26 liquor control license. However, if the person holding the
27 class "A" permit is a manufacturer of native wine, the person
28 may sell only native wine to a person holding a retail wine
29 permit or a retail liquor control license. A class "A" wine
30 permittee having more than one place of business shall obtain
31 a separate permit for each place of business where wine is to
32 be stored, warehoused, or sold.

33 Sec. 10. NEW SECTION. 123.178A AUTHORITY UNDER CLASS "B"
34 NATIVE PERMIT.

35 1. A person holding a class "B" native wine permit may

1 sell native wine only at retail for consumption off the
2 premises. Native wine shall be sold for consumption off the
3 premises in original containers only.

4 2. A class "B" native wine permittee having more than one
5 place of business where wine is sold shall obtain a separate
6 permit for each place of business.

7 3. A person holding a class "B" native wine permit may
8 purchase wine for resale only from a native winery holding a
9 class "A" wine permit.

10 Sec. 11. NEW SECTION. 123.178B AUTHORITY UNDER CLASS "C"
11 NATIVE PERMIT.

12 1. A person holding a class "C" native wine permit may
13 sell native wine only at retail for consumption on or off the
14 premises.

15 2. A class "C" native wine permittee having more than one
16 place of business where wine is sold and served shall obtain a
17 separate permit for each place of business.

18 3. A person holding a class "C" native wine permit may
19 purchase wine for resale only from a native winery holding a
20 class "A" wine permit.

21 Sec. 12. Section 123.179, Code 2003, is amended by adding
22 the following new subsections:

23 NEW SUBSECTION. 3. The annual permit fee for a class "B"
24 native wine permit is twenty-five dollars.

25 NEW SUBSECTION. 4. The annual permit fee for a class "C"
26 native wine permit is twenty-five dollars.

27 Sec. 13. Section 123.183, subsection 3, paragraph a, Code
28 2003, is amended to read as follows:

29 a. The revenue ~~actually~~ collected during each fiscal year
30 from the wine gallonage tax on wine imported into this state
31 at wholesale and sold in this state at wholesale that is in
32 excess of the revenue ~~estimated-to-be~~ collected from such tax
33 ~~as-last-agreed-to-by-the-state-revenue-estimating-conference~~
34 during the previous fiscal year as provided in section 8.22A
35 shall be deposited in the grape and wine development fund as

1 created in section 175A.5. However, not more than seventy-
2 five thousand dollars from such tax shall be deposited into
3 the grape and wine development fund during any fiscal year.

4 Sec. 14. Section 123.176, Code 2003, is repealed.

5 Sec. 15. LEGISLATION TO BE SUBMITTED. The alcoholic
6 beverages division of the department of commerce shall submit
7 proposed legislation during the 2004 Regular Session of the
8 Eightieth General Assembly which shall make additional
9 conforming changes to chapter 123, and any other impacted
10 provisions of the Code of Iowa, to fully implement the
11 provisions of this Act.

12 Sec. 16. EFFECTIVE AND APPLICABILITY DATES.

13 1. This Act, being deemed of immediate importance, takes
14 effect upon enactment.

15 2. The section of this Act amending section 123.183 and
16 relating to the deposit of revenue collected from the wine
17 gallonage tax in the grape and wine development fund is
18 retroactively applicable to July 1, 2002. The revenue
19 collected during the fiscal year beginning on July 1, 2002,
20 and ending on June 30, 2003, from the wine gallonage tax on
21 wine imported into this state at wholesale and sold in this
22 state at wholesale as provided in section 123.183 that is in
23 excess of the revenue collected from such tax during the
24 fiscal year beginning July 1, 2001, and ending on June 30,
25 2002, shall be deposited in the grape and wine development
26 fund as created in section 175.5. However, not more than
27 seventy-five thousand dollars from such tax shall be deposited
28 into the fund.

29 EXPLANATION

30 This bill relates to the devotion of a portion of wholesale
31 wine gallonage taxes for grape and wine development programs.
32 The programs assist persons in establishing, improving, or
33 expanding vineyards and winemaking operations. Under current
34 law, any annual excess of actual wholesale wine gallonage tax
35 revenue over the amount estimated to be collected by the

1 revenue estimating conference is available to support the
2 programs. The bill provides that any annual increase in the
3 collection of such wholesale wine gallonage taxes over the
4 previous year's collection is available to support the
5 programs. The current law's devotion of a maximum of \$75,000
6 annually to support the programs is maintained.

7 The bill also provides for the creation of two new wine
8 permit classifications relating to native wine. The bill
9 provides that "native wine" refers to wine manufactured in the
10 state of Iowa. The bill provides that the holder of a class
11 "B" native wine permit may sell native wine at retail for off-
12 premises consumption, and may purchase the wine for resale
13 only from a native winery holding a class "A" wine permit.
14 The bill provides that the holder of a class "C" native wine
15 permit may sell native wine at retail for either off-premises
16 or on-premises consumption, and may purchase the wine for
17 resale only from a native winery holding a class "A" wine
18 permit.

19 The bill provides that if a person holding a class "A" wine
20 permit is a manufacturer of native wine, the person may sell
21 only native wine to a person holding a retail wine permit,
22 which would encompass a class "B" retail wine permit, and the
23 two new native wine permits. The bill provides that a person
24 engaged in the business of manufacturing native wine may sell
25 native wine at retail for consumption on the premises of the
26 manufacturing facility by applying for a class "C" native wine
27 permit, and that a manufacturer of native wine may be granted
28 not more than one such permit. The bill provides that the
29 annual permit fee for a class "B" native wine permit or a
30 class "C" native wine permit shall be \$25.

31 The bill deletes a provision which requires that sales of
32 native wines made at retail for off-premises consumption may
33 be sold on the premises of the manufacturer, or in a retail
34 establishment operated by the manufacturer, which is no closer
35 than five miles from an existing native winery.

1 The bill makes some conforming changes to Code chapter 123,
2 and additionally provides that the alcoholic beverages
3 division of the department of commerce shall submit proposed
4 legislation during the 2004 legislative session making
5 additional conforming changes.

6 The bill is effective upon enactment, and the provisions
7 relating to the deposit of revenue collected from the wine
8 gallonage tax in the grape and wine development fund are
9 retroactively applicable to July 1, 2002.

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HOUSE FILE 682

H-1354

1 Amend House File 682 as follows:

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

4 "Sec. ____ . Section 123.127, subsection 1,
5 paragraph c, Code 2003, is amended by striking the
6 paragraph and inserting in lieu thereof the following:

7 c. That the applicant is a person of good moral
8 character as defined by this chapter."

9 2. Page 4, by striking lines 31 through 34 and
10 inserting the following:

11 ~~"c. The place of birth of the applicant, and if~~
12 ~~the applicant is a naturalized citizen, the time and~~
13 ~~place of naturalization, or if a corporation, the~~
14 ~~state of incorporation. That the applicant is a~~
15 person of good moral character as defined by this
16 chapter."

17 3. Page 5, by inserting after line 18 the
18 following:

19 "Sec. ____ . Section 123.176, subsection 1,
20 paragraph c, Code 2003, is amended by striking the
21 paragraph and inserting in lieu thereof the following:

22 c. That the applicant is a person of good moral
23 character as defined by this chapter."

By DRAKE of Pottawattamie
BOGGESS of Page

H-1354 FILED APRIL 16, 2003

A - Adopted 4/21/03
B - Withdrawn 4/21/03

HOUSE FILE 682
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 651)
(SUCCESSOR TO HSB 173)

(As Amended and Passed by the House April 21, 2003)

Passed House, Date 4/21/03 Passed Senate, Date 4/28/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved 5/21/03

A BILL FOR

1 An Act relating to wine by providing for native wine permits,
2 providing wine gallonage tax revenue to support grape and wine
3 development, providing for fees, and providing an effective
4 date and retroactive applicability.

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

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House Amendments _____

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HF
682

1 Section 1. Section 123.3, Code 2003, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 22A. "Native wine" means wine
4 manufactured in this state.

5 Sec. 2. Section 123.3, subsection 30, Code 2003, is
6 amended to read as follows:

7 30. "Retail wine permit" means a class "B" wine permit,
8 class "B" native wine permit, or class "C" native wine permit
9 issued under this chapter.

10 Sec. 3. Section 123.32, subsection 1, Code 2003, is
11 amended to read as follows:

12 1. FILING OF APPLICATION. An application for a class "A",
13 class "B", class "C", or class "E" liquor control license, for
14 a retail beer permit as provided in sections 123.128 and
15 123.129, or for a class "B", class "B" native, or class "C"
16 native retail wine permit as provided in section ~~123.176~~
17 123.178, 123.178A, or 123.178B, accompanied by the necessary
18 fee and bond, if required, shall be filed with the appropriate
19 city council if the premises for which the license or permit
20 is sought are located within the corporate limits of a city,
21 or with the board of supervisors if the premises for which the
22 license or permit is sought are located outside the corporate
23 limits of a city. An application for a class "D" liquor
24 control license and for a class "A" beer or class "A" wine
25 permit, accompanied by the necessary fee and bond, if
26 required, shall be filed with the division, which shall
27 proceed in the same manner as in the case of an application
28 approved by local authorities.

29 Sec. 4. Section 123.56, subsection 1, Code 2003, is
30 amended to read as follows:

31 1. Subject to rules of the division, manufacturers of
32 native wines from grapes, cherries, other fruits or other
33 fruit juices, vegetables, vegetable juices, dandelions,
34 clover, honey, or any combination of these ingredients,
35 holding a class "A" wine permit as required by this chapter,

1 may sell, keep, or offer for sale and deliver the wine. Sales
2 may be made at retail for off-premises consumption when sold
3 on the premises of the manufacturer, or in a retail
4 establishment operated by the manufacturer ~~which is no closer~~
5 ~~than five miles from an existing native winery~~. Sales may
6 also be made to class "A" or retail wine permittees or liquor
7 control licensees as authorized by the class "A" wine permit.

8 Sec. 5. Section 123.56, Code 2003, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 6. Notwithstanding any other provision of
11 this chapter, a person engaged in the business of
12 manufacturing native wine may sell native wine at retail for
13 consumption on the premises of the manufacturing facility by
14 applying for a class "C" native wine permit as provided in
15 section 123.178B. A manufacturer of native wine may be
16 granted not more than one class "C" native wine permit.

17 Sec. 6. Section 123.127, subsection 1, paragraph c, Code
18 2003, is amended by striking the paragraph and inserting in
19 lieu thereof the following:

20 c. That the applicant is a person of good moral character
21 as defined by this chapter.

22 Sec. 7. Section 123.173, Code 2003, is amended to read as
23 follows:

24 123.173 WINE PERMITS -- CLASSES -- AUTHORITY.

25 Permits exclusively for the sale or manufacture and sale of
26 wine shall be divided into ~~two~~ four classes, and shall be
27 known as class "A", or "B", "B" native, or "C" native wine
28 permits.

29 A class "A" wine permit allows the holder to manufacture
30 and sell, or sell at wholesale, in this state, wine as defined
31 in section 123.3, subsection 37. The holder of a class "A"
32 wine permit may manufacture in this state wine having an
33 alcoholic content greater than seventeen percent by weight for
34 shipment outside this state. All class "A" premises shall be
35 located within the state. A class "B" or class "B" native

1 wine permit allows the holder to sell wine at retail for
2 consumption off the premises. A class "B" or class "B" native
3 wine permittee who also holds a class "E" liquor control
4 license may sell wine to class "A", class "B", and class "C"
5 liquor control licensees for resale for consumption on the
6 premises. ~~A class "B" wine permittee who also holds a class~~
7 ~~"E" liquor control license may sell wine to class "A", class~~
8 ~~"B", and class "E" liquor control licensees~~ Such wine sales
9 shall be in quantities of less than one case of any wine brand
10 but not more than one such sale shall be made to the same
11 liquor control licensee in a twenty-four hour period. A class
12 "B" or class "B" native wine permittee shall not sell wine to
13 other class "B", or class "B" native wine permittees. A class
14 "C" native wine permit allows the holder to sell wine for
15 consumption on or off the premises.

16 A class "A" wine permittee shall be required to deliver
17 wine to a ~~class "B"~~ retail wine permittee, and a ~~class "B"~~
18 retail wine permittee shall be required to accept delivery of
19 wine from a class "A" wine permittee, only at the licensed
20 premises of the ~~class "B"~~ retail wine permittee. Except as
21 specifically permitted by the division upon good cause shown,
22 delivery or transfer of wine from an unlicensed premises to a
23 licensed "B" retail wine permittee's premises, or from one
24 licensed "B" retail wine permittee's premises to another
25 licensed "B" retail wine permittee's premises, even if there
26 is common ownership of all of the premises by one ~~class "B"~~
27 retail permittee, is prohibited. A class "B" or class "B"
28 native wine permittee who also holds a class "E" liquor
29 control license shall keep and maintain records for each sale
30 of wine to liquor control licensees showing the name of the
31 establishment to which wine was sold, the date of sale, and
32 the brands and number of bottles sold to the liquor control
33 licensee.

34 When a class "B" or class "B" native wine permittee who
35 also holds a class "E" liquor control license sells wine to a

1 class "A", class "B", or class "C" liquor control licensee,
2 the liquor control licensee shall sign a report attesting to
3 the purchase. The class "B" or class "B" native wine
4 permittee who also holds a class "E" liquor control license
5 shall submit to the division, on forms supplied by the
6 division, not later than the tenth of each month a report
7 stating each sale of wine to class "A", class "B", and class
8 "C" liquor control licensees during the preceding month, the
9 date of each sale, and the brands and numbers of bottles with
10 each sale. A class "B" permittee who holds a class "E" liquor
11 control license may sell to class "A", class "B", or class "C"
12 liquor control licensees only if the licensed premises of the
13 liquor control licensee is located within the geographic
14 territory of the class "A" wine permittee from which the wine
15 was originally purchased by the class "B" wine permittee.

16 Sec. 8. Section 123.174, Code 2003, is amended to read as
17 follows:

18 123.174 ISSUANCE OF WINE PERMITS.

19 The administrator shall issue ~~class-"A"-and-"B"~~ wine
20 permits as provided in this chapter, and may suspend or revoke
21 a wine permit for cause as provided in this chapter.

22 Sec. 9. Section 123.175, Code 2003, is amended to read as
23 follows:

24 123.175 ~~CLASS-"A"~~ APPLICATION CONTENTS.

25 Except as otherwise provided in this chapter, a class "A"
26 or retail wine permit shall be issued to a person who complies
27 with all of the following:

28 1. Submits a written application for the permit and states
29 on the application under oath:

30 a. The name and place of residence of the applicant and
31 the length of time the applicant has lived at the place of
32 residence.

33 b. That the applicant is a citizen of the state of Iowa,
34 or if a corporation, that the applicant is authorized to do
35 business in Iowa.

1 ~~c. The place of birth of the applicant, and if the~~
2 ~~applicant is a naturalized citizen, the time and place of~~
3 ~~naturalization, or if a corporation, the state of~~
4 ~~incorporation. That the applicant is a person of good moral~~
5 ~~character as defined by this chapter.~~

6 d. The location of the premises where the applicant
7 intends to use the permit.

8 e. The name of the owner of the premises, and if that
9 owner is not the applicant, that the applicant is the actual
10 lessee of the premises.

11 2. Establishes all of the following:

12 a. That the applicant meets the test of good moral
13 character as provided in section 123.3, subsection 26.

14 b. That the premises where the applicant intends to use
15 the permit conform to all applicable laws, health regulations,
16 and fire regulations, and constitute a safe and proper place
17 or building.

18 3. Submits, in the case of a class "A" wine permit, a bond
19 in the amount of five thousand dollars in the form prescribed
20 and furnished by the division with good and sufficient
21 sureties to be approved by the division conditioned upon
22 compliance with this chapter.

23 4. Consents to inspection as required in section 123.30,
24 subsection 1.

25 Sec. 10. Section 123.177, subsection 1, Code 2003, is
26 amended to read as follows:

27 1. A person holding a class "A" wine permit may
28 manufacture and sell, or sell at wholesale, wine for
29 consumption off the premises. Sales within the state may be
30 made only to persons holding a class "A" or "B" wine permit
31 and to persons holding a ~~class "A", "B", "C" or "D"~~ retail
32 liquor control license. However, if the person holding the
33 class "A" permit is a manufacturer of native wine, the person
34 may sell only native wine to a person holding a retail wine
35 permit or a retail liquor control license. A class "A" wine

1 permittee having more than one place of business shall obtain
2 a separate permit for each place of business where wine is to
3 be stored, warehoused, or sold.

4 Sec. 11. NEW SECTION. 123.178A AUTHORITY UNDER CLASS "B"
5 NATIVE PERMIT.

6 1. A person holding a class "B" native wine permit may
7 sell native wine only at retail for consumption off the
8 premises. Native wine shall be sold for consumption off the
9 premises in original containers only.

10 2. A class "B" native wine permittee having more than one
11 place of business where wine is sold shall obtain a separate
12 permit for each place of business.

13 3. A person holding a class "B" native wine permit may
14 purchase wine for resale only from a native winery holding a
15 class "A" wine permit.

16 Sec. 12. NEW SECTION. 123.178B AUTHORITY UNDER CLASS "C"
17 NATIVE PERMIT.

18 1. A person holding a class "C" native wine permit may
19 sell native wine only at retail for consumption on or off the
20 premises.

21 2. A class "C" native wine permittee having more than one
22 place of business where wine is sold and served shall obtain a
23 separate permit for each place of business.

24 3. A person holding a class "C" native wine permit may
25 purchase wine for resale only from a native winery holding a
26 class "A" wine permit.

27 Sec. 13. Section 123.179, Code 2003, is amended by adding
28 the following new subsections:

29 NEW SUBSECTION. 3. The annual permit fee for a class "B"
30 native wine permit is twenty-five dollars.

31 NEW SUBSECTION. 4. The annual permit fee for a class "C"
32 native wine permit is twenty-five dollars.

33 Sec. 14. Section 123.183, subsection 3, paragraph a, Code
34 2003, is amended to read as follows:

35 a. The revenue ~~actualy~~ collected during each fiscal year

1 from the wine gallonage tax on wine imported into this state
2 at wholesale and sold in this state at wholesale that is in
3 excess of the revenue ~~estimated-to-be~~ collected from such tax
4 ~~as-last-agreed-to-by-the-state-revenue-estimating-conference~~
5 during the previous fiscal year as provided in section 8.22A
6 shall be deposited in the grape and wine development fund as
7 created in section 175A.5. However, not more than seventy-
8 five thousand dollars from such tax shall be deposited into
9 the grape and wine development fund during any fiscal year.

10 Sec. 15. Section 123.176, Code 2003, is repealed.

11 Sec. 16. LEGISLATION TO BE SUBMITTED. The alcoholic
12 beverages division of the department of commerce shall submit
13 proposed legislation during the 2004 Regular Session of the
14 Eightieth General Assembly which shall make additional
15 conforming changes to chapter 123, and any other impacted
16 provisions of the Code of Iowa, to fully implement the
17 provisions of this Act.

18 Sec. 17. EFFECTIVE AND APPLICABILITY DATES.

19 1. This Act, being deemed of immediate importance, takes
20 effect upon enactment.

21 2. The section of this Act amending section 123.183 and
22 relating to the deposit of revenue collected from the wine
23 gallonage tax in the grape and wine development fund is
24 retroactively applicable to July 1, 2002. The revenue
25 collected during the fiscal year beginning on July 1, 2002,
26 and ending on June 30, 2003, from the wine gallonage tax on
27 wine imported into this state at wholesale and sold in this
28 state at wholesale as provided in section 123.183 that is in
29 excess of the revenue collected from such tax during the
30 fiscal year beginning July 1, 2001, and ending on June 30,
31 2002, shall be deposited in the grape and wine development
32 fund as created in section 175.5. However, not more than
33 seventy-five thousand dollars from such tax shall be deposited
34 into the fund.

35

Manter nach Chair
Baudler
Mertz

Suc^d ed By
SF 0651

HSB 173
Agriculture

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
AGRICULTURE AND LAND
STEWARDSHIP BILL)

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

A BILL FOR

1 An Act providing wine gallonage tax revenue to support grape and
2 wine development, and providing an effective date and
3 retroactive applicability.

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

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1 Section 1. Section 123.183, subsection 3, paragraph a,
2 Code 2003, is amended to read as follows:

3 a. The revenue ~~actually~~ collected during each fiscal year
4 from the wine gallonage tax on wine imported into this state
5 at wholesale and sold in this state at wholesale that is in
6 excess of the revenue ~~estimated-to-be~~ collected from such tax
7 ~~as-last-agreed-to-by-the-state-revenue-estimating-conference~~
8 during the previous fiscal year as provided in section 8.22A
9 shall be deposited in the grape and wine development fund as
10 created in section 175A.5. However, not more than seventy-
11 five thousand dollars from such tax shall be deposited into
12 the grape and wine development fund during any fiscal year.

13 Sec. 2. EFFECTIVE AND APPLICABILITY DATES.

14 1. This Act, being deemed of immediate importance, takes
15 effect upon enactment.

16 2. This Act is retroactively applicable to July 1, 2002.
17 The revenue collected during the fiscal year beginning on July
18 1, 2002, and ending on June 30, 2003, from the wine gallonage
19 tax on wine imported into this state at wholesale and sold in
20 this state at wholesale as provided in section 123.183 that is
21 in excess of the revenue collected from such tax during the
22 fiscal year beginning July 1, 2001, and ending on June 30,
23 2002, shall be deposited in the grape and wine development
24 fund as created in section 175.5. However, not more than
25 seventy-five thousand dollars from such tax shall be deposited
26 into the fund.

27

EXPLANATION

28 This bill relates to the devotion of a portion of wholesale
29 wine gallonage taxes for grape and wine development programs.
30 The programs assist persons in establishing, improving, or
31 expanding vineyards and winemaking operations. Under current
32 law, any annual excess of actual wholesale wine gallonage tax
33 revenue over the amount estimated to be collected by the
34 revenue estimating conference is available to support the
35 programs. The bill provides that any annual increase in the

1 collection of such wholesale wine gallonage taxes over the
2 previous year's collection is available to support the
3 programs. The current law's devotion of a maximum of \$75,000
4 annually to support the programs is maintained. The bill is
5 effective upon enactment and is retroactively applicable to
6 July 1, 2002.

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AN ACT

RELATING TO WINE BY PROVIDING FOR NATIVE WINE PERMITS,
PROVIDING WINE GALLONAGE TAX REVENUE TO SUPPORT GRAPE
AND WINE DEVELOPMENT, PROVIDING FOR FEES, AND PROVIDING
AN EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

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

Section 1. Section 123.3, Code 2003, is amended by adding
the following new subsection:

NEW SUBSECTION. 22A. "Native wine" means wine
manufactured in this state.

Sec. 2. Section 123.3, subsection 30, Code 2003, is
amended to read as follows:

30. "Retail wine permit" means a class "B" wine permit,
class "B" native wine permit, or class "C" native wine permit
issued under this chapter.

Sec. 3. Section 123.32, subsection 1, Code 2003, is
amended to read as follows:

1. FILING OF APPLICATION. An application for a class "A",
class "B", class "C", or class "E" liquor control license, for
a retail beer permit as provided in sections 123.128 and
123.129, or for a class "B", class "B" native, or class "C"
native retail wine permit as provided in section ~~123.176~~
123.178, 123.178A, or 123.178B, accompanied by the necessary
fee and bond, if required, shall be filed with the appropriate
city council if the premises for which the license or permit
is sought are located within the corporate limits of a city,
or with the board of supervisors if the premises for which the
license or permit is sought are located outside the corporate
limits of a city. An application for a class "D" liquor

control license and for a class "A" beer or class "A" wine permit, accompanied by the necessary fee and bond, if required, shall be filed with the division, which shall proceed in the same manner as in the case of an application approved by local authorities.

Sec. 4. Section 123.56, subsection 1, Code 2003, is amended to read as follows:

1. Subject to rules of the division, manufacturers of native wines from grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, holding a class "A" wine permit as required by this chapter, may sell, keep, or offer for sale and deliver the wine. Sales may be made at retail for off-premises consumption when sold on the premises of the manufacturer, or in a retail establishment operated by the manufacturer ~~which-is-no-closer-than-five-miles-from-an-existing-native-winery~~. Sales may also be made to class "A" or retail wine permittees or liquor control licensees as authorized by the class "A" wine permit.

Sec. 5. Section 123.56, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding any other provision of this chapter, a person engaged in the business of manufacturing native wine may sell native wine at retail for consumption on the premises of the manufacturing facility by applying for a class "C" native wine permit as provided in section 123.178B. A manufacturer of native wine may be granted not more than one class "C" native wine permit.

Sec. 6. Section 123.127, subsection 1, paragraph c, Code 2003, is amended by striking the paragraph and inserting in lieu thereof the following:

c. That the applicant is a person of good moral character as defined by this chapter.

Sec. 7. Section 123.173, Code 2003, is amended to read as follows:

123.173 WINE PERMITS -- CLASSES -- AUTHORITY.

Permits exclusively for the sale or manufacture and sale of wine shall be divided into ~~two~~ four classes, and shall be known as class "A", ~~or "B", "B" native, or "C" native~~ wine permits.

A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine as defined in section 123.3, subsection 37. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight for shipment outside this state. All class "A" premises shall be located within the state. A class "B" or class "B" native wine permit allows the holder to sell wine at retail for consumption off the premises. A class "B" or class "B" native wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", and class "C" liquor control licensees for resale for consumption on the premises. ~~A class "B" wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", and class "C" liquor control licensees~~ Such wine sales shall be in quantities of less than one case of any wine brand but not more than one such sale shall be made to the same liquor control licensee in a twenty-four hour period. A class "B" or class "B" native wine permittee shall not sell wine to other class "B", or class "B" native wine permittees. A class "C" native wine permit allows the holder to sell wine for consumption on or off the premises.

A class "A" wine permittee shall be required to deliver wine to a ~~class "B"~~ retail wine permittee, and a ~~class "B"~~ retail wine permittee shall be required to accept delivery of wine from a class "A" wine permittee, only at the licensed premises of the ~~class "B"~~ retail wine permittee. Except as specifically permitted by the division upon good cause shown, delivery or transfer of wine from an unlicensed premises to a licensed "B" retail wine permittee's premises, or from one licensed "B" retail wine permittee's premises to another

licensed "B" retail wine permittee's premises, even if there is common ownership of all of the premises by one ~~class-"B"~~ retail permittee, is prohibited. A class "B" or class "B" native wine permittee who also holds a class "E" liquor control license shall keep and maintain records for each sale of wine to liquor control licensees showing the name of the establishment to which wine was sold, the date of sale, and the brands and number of bottles sold to the liquor control licensee.

When a class "B" or class "B" native wine permittee who also holds a class "E" liquor control license sells wine to a class "A", class "B", or class "C" liquor control licensee, the liquor control licensee shall sign a report attesting to the purchase. The class "B" or class "B" native wine permittee who also holds a class "E" liquor control license shall submit to the division, on forms supplied by the division, not later than the tenth of each month a report stating each sale of wine to class "A", class "B", and class "C" liquor control licensees during the preceding month, the date of each sale, and the brands and numbers of bottles with each sale. A class "B" permittee who holds a class "E" liquor control license may sell to class "A", class "B", or class "C" liquor control licensees only if the licensed premises of the liquor control licensee is located within the geographic territory of the class "A" wine permittee from which the wine was originally purchased by the class "B" wine permittee.

Sec. 8. Section 123.174, Code 2003, is amended to read as follows:

123.174 ISSUANCE OF WINE PERMITS.

The administrator shall issue ~~class-"A"-and-"B"~~ wine permits as provided in this chapter, and may suspend or revoke a wine permit for cause as provided in this chapter.

Sec. 9. Section 123.175, Code 2003, is amended to read as follows:

123.175 ~~CLASS-"A"~~ APPLICATION CONTENTS.

Except as otherwise provided in this chapter, a class "A" or retail wine permit shall be issued to a person who complies with all of the following:

1. Submits a written application for the permit and states on the application under oath:

a. The name and place of residence of the applicant and the length of time the applicant has lived at the place of residence.

b. That the applicant is a citizen of the state of Iowa, or if a corporation, that the applicant is authorized to do business in Iowa.

~~c. The place of birth of the applicant, and if the applicant is a naturalized citizen, the time and place of naturalization, or if a corporation, the state of incorporation.~~ That the applicant is a person of good moral character as defined by this chapter.

d. The location of the premises where the applicant intends to use the permit.

e. The name of the owner of the premises, and if that owner is not the applicant, that the applicant is the actual lessee of the premises.

2. Establishes all of the following:

a. That the applicant meets the test of good moral character as provided in section 123.3, subsection 26.

b. That the premises where the applicant intends to use the permit conform to all applicable laws, health regulations, and fire regulations, and constitute a safe and proper place or building.

3. Submits, in the case of a class "A" wine permit, a bond in the amount of five thousand dollars in the form prescribed and furnished by the division with good and sufficient sureties to be approved by the division conditioned upon compliance with this chapter.

4. Consents to inspection as required in section 123.30, subsection 1.

Sec. 10. Section 123.177, subsection 1, Code 2003, 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"~~ retail liquor control license. However, if the person holding the class "A" permit is a manufacturer of native wine, the person may sell only native wine to a person holding a retail wine permit or a retail liquor control license. 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. 11. NEW SECTION. 123.178A AUTHORITY UNDER CLASS "B" NATIVE PERMIT.

1. A person holding a class "B" native wine permit may sell native wine only at retail for consumption off the premises. Native wine shall be sold for consumption off the premises in original containers only.

2. A class "B" native wine permittee having more than one place of business where wine is sold shall obtain a separate permit for each place of business.

3. A person holding a class "B" native wine permit may purchase wine for resale only from a native winery holding a class "A" wine permit.

Sec. 12. NEW SECTION. 123.178B AUTHORITY UNDER CLASS "C" NATIVE PERMIT.

1. A person holding a class "C" native wine permit may sell native wine only at retail for consumption on or off the premises.

2. A class "C" native wine permittee having more than one place of business where wine is sold and served shall obtain a separate permit for each place of business.

3. A person holding a class "C" native wine permit may purchase wine for resale only from a native winery holding a class "A" wine permit.

Sec. 13. Section 123.179, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 3. The annual permit fee for a class "B" native wine permit is twenty-five dollars.

NEW SUBSECTION. 4. The annual permit fee for a class "C" native wine permit is twenty-five dollars.

Sec. 14. Section 123.183, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. The revenue ~~actually~~ collected during each fiscal year from the wine gallonage tax on wine imported into this state at wholesale and sold in this state at wholesale that is in excess of the revenue ~~estimated-to-be~~ collected from such tax ~~as-last-agreed-to-by-the-state-revenue-estimating-conference~~ during the previous fiscal year as provided in section 8.22A shall be deposited in the grape and wine development fund as created in section 175A.5. However, not more than seventy-five thousand dollars from such tax shall be deposited into the grape and wine development fund during any fiscal year.

Sec. 15. Section 123.176, Code 2003, is repealed.

Sec. 16. LEGISLATION TO BE SUBMITTED. The alcoholic beverages division of the department of commerce shall submit proposed legislation during the 2004 Regular Session of the Eightieth General Assembly which shall make additional conforming changes to chapter 123, and any other impacted provisions of the Code of Iowa, to fully implement the provisions of this Act.

Sec. 17. EFFECTIVE AND APPLICABILITY DATES.

1. This Act, being deemed of immediate importance, takes effect upon enactment.

2. The section of this Act amending section 123.183 and relating to the deposit of revenue collected from the wine gallonage tax in the grape and wine development fund is

retroactively applicable to July 1, 2002. The revenue collected during the fiscal year beginning on July 1, 2002, and ending on June 30, 2003, from the wine gallonage tax on wine imported into this state at wholesale and sold in this state at wholesale as provided in section 123.183 that is in excess of the revenue collected from such tax during the fiscal year beginning July 1, 2001, and ending on June 30, 2002, shall be deposited in the grape and wine development fund as created in section 175.5. However, not more than seventy-five thousand dollars from such tax shall be deposited into the fund.

CHRISTOPHER C. RANTS
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 682, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor