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SENATE FILE 2220

BY LUNDBY GOVERNMENT OVERSIGHT

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for the privatization of the state liquor  
2 warehouse, and providing penalties.

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

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SF 2220 GOVERNMENT OVERSIGHT

1 Section 1. Section 123.3, subsection 36, Code Supplement  
2 2003, is 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 2003,  
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 2003, 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, paragraphs a, b, c,  
11 and e, Code 2003, 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-premises consumption, if the premises are

1 in a county having a population under nine thousand five  
2 hundred in which no other class "E" liquor control license has  
3 been issued by the division, and no other application for a  
4 class "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 the state, and to other licensed wholesalers and  
17 retail liquor licensees licensed to sell liquor for  
18 consumption either on the premises or off the premises.  
19 Alcoholic liquor shall not be sold for consumption on the  
20 licensed 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  
10 incorporation.

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  
21 regulations, and fire regulations, and constitute a safe and  
22 proper 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  
27 manufactured for sale or sold in this state to wholesalers and  
28 all liquor imported into this state for sale at wholesale, to  
29 the 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, 2005, 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 This 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  
17 licensed 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, 2005, 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, 2005, when all liquor sales will revert to  
30 private wholesalers.

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

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