

JAN 31 2005
STATE GOVERNMENT

HOUSE FILE 143
BY WINCKLER and J. R. VAN FOSSEN

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

A BILL FOR

1 An Act relating to the issuance or renewal of liquor control
2 licenses and wine and beer permits by local authorities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 123.32, subsections 6, 7, and 8, Code
2 2005, are amended to read as follows:

3 6. APPEAL TO ADMINISTRATOR. An applicant for a liquor
4 control license, wine permit, or beer permit may appeal from
5 the local authority's disapproval of an application for a
6 license or permit to the administrator. In the appeal the
7 applicant shall be allowed the opportunity to demonstrate in
8 an evidentiary hearing conducted pursuant to chapter 17A that
9 the applicant complies with all of the requirements for
10 holding the license or permit. The administrator may appoint
11 a member of the division or may request an administrative law
12 judge from the department of inspections and appeals to
13 conduct the evidentiary hearing and to render a proposed
14 decision to approve or disapprove the issuance of the license
15 or permit. The administrator may affirm~~7--reverse7--or-modify~~
16 ~~the-proposed-decision~~ the local authority's determination that
17 the applicant does not comply with the requirements for
18 holding a license or permit, or recommend that the local
19 authority reverse its decision. If the administrator
20 determines that the applicant complies with all of the
21 requirements for holding a license or permit, the
22 administrator shall ~~order-the-issuance-of-the-license-or~~
23 ~~permit~~ notify, by certified mail, the local authority of the
24 administrator's finding. ~~If-the-administrator-determines-that~~
25 ~~the-applicant-does-not-comply-with-the-requirements-for~~
26 ~~holding-a-license-or-permit7-the-administrator-shall~~
27 ~~disapprove-the-issuance-of-the-license-or-permit.~~ The local
28 authority shall reconsider the application based on the
29 administrator's findings and its own findings and approve or
30 disapprove the application. The second disapproval by the
31 local authority shall be the final administrative decision on
32 the application.

33 7. JUDICIAL REVIEW. The applicant ~~or-the-local-authority~~
34 may seek judicial review of the action of the administrator in
35 accordance with the terms of the Iowa administrative procedure

1 Act, chapter 17A. Notwithstanding the terms of the Iowa
2 administrative procedure Act, chapter 17A, petitions for
3 judicial review may be filed in the district court of the
4 county where the premises covered by the application are
5 situated. The applicant may seek judicial review of a second
6 disapproval by the local authority in the district court of
7 the county where the premises covered by the application are
8 situated.

9 8. SUSPENSION BY LOCAL AUTHORITY. A liquor control
10 licensee or a wine or beer permittee whose license or permit
11 has been suspended or revoked or a civil penalty imposed by a
12 local authority for a violation of this chapter or suspended
13 by a local authority for violation of a local ordinance may
14 appeal the suspension, revocation, or civil penalty to the
15 administrator. The administrator may appoint a member of the
16 division or may request an administrative law judge from the
17 department of inspections and appeals to hear the appeal which
18 shall be conducted in accordance with chapter 17A and to issue
19 a proposed decision. The administrator may review the
20 proposed decision upon the motion of a party to the appeal or
21 upon the administrator's own motion in accordance with chapter
22 17A. Upon review of the proposed decision, the administrator
23 may affirm~~7-reverse7-or-modify~~ the proposed decision or
24 recommend that the local authority reverse its decision. A
25 ~~liquor-control-licensee7-wine-or-beer-permittee7-or-a-local~~
26 ~~authority-aggrieved-by-a-decision-of-the-administrator-may~~
27 ~~seek-judicial-review-of-the-decision-pursuant-to-chapter-17A7~~
28 If the administrator recommends reversal, the local authority
29 shall reconsider the suspension, revocation, or civil penalty,
30 and affirm or reverse its action. A liquor control licensee
31 or wine or beer permittee may seek judicial review of the
32 decision of the local authority in the district court of the
33 county where the premises subject to the decision are located.

34 EXPLANATION

35 This bill provides that applications for liquor control

1 licenses and wine and beer permits which are disapproved by a
2 city or county are subject to reconsideration by the city or
3 county if the same application is recommended to be approved
4 by the administrator of the alcoholic beverages division of
5 the department of commerce. If the city or county disapproves
6 the application upon reconsideration, the license or permit is
7 denied. The decision may be appealed to the district court.

8 The bill also provides that a suspension or revocation of
9 an alcoholic beverage license or permit or a civil penalty
10 imposed by a city or county is subject to reconsideration by
11 the city or county if, upon appeal, the administrator of the
12 alcoholic beverages division recommends reversal. If the city
13 or county reaffirms its previous action, the action of the
14 city or county may be appealed to the district court.

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