

MAR 1 1 2005  
APPROPRIATIONS

HOUSE FILE 731  
BY COMMITTEE ON COMMERCE,  
REGULATION AND LABOR

(SUCCESSOR TO HSB 187)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act concerning state liquor activities, including liquor  
2 prices set by the alcoholic beverages division, moneys  
3 appropriated from liquor sale revenues for substance abuse  
4 treatment, and state liquor warehouse operations.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 731

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1 Section 1. Section 123.24, subsection 1, Code 2005, is  
2 amended to read as follows:

3 1. The division shall sell alcoholic liquor at wholesale  
4 only. The division shall sell alcoholic liquor to class "E"  
5 liquor control licensees only. ~~The division shall offer the~~  
6 ~~same price on alcoholic liquor to all class "E" liquor control~~  
7 ~~licensees without regard for the quantity of purchase or the~~  
8 ~~distance for delivery. -- However, the division may assess a~~  
9 ~~split case charge when liquor is sold in quantities which~~  
10 ~~require a case to be split.~~

11 Sec. 2. Section 123.53, subsection 3, Code 2005, is  
12 amended to read as follows:

13 3. The treasurer of state shall transfer into a special  
14 revenue account in the general fund of the state, a sum of  
15 money at least equal to seven percent of the gross amount of  
16 sales made by the division from the beer and liquor control  
17 fund on a monthly basis but not less than nine million dollars  
18 annually, ~~and any amounts so.~~ Of the amounts transferred, two  
19 million dollars, plus an additional amount determined by the  
20 general assembly, shall be used by appropriated to the  
21 substance abuse division of the Iowa department of public  
22 health to be used for substance abuse treatment and prevention  
23 programs ~~in an amount determined by the general assembly and~~  
24 ~~any.~~ Any amounts received in excess of the amounts  
25 appropriated to the substance abuse division of the Iowa  
26 department of public health shall be considered part of the  
27 general fund balance.

28 Sec. 3. ALCOHOLIC BEVERAGES DIVISION -- STATE LIQUOR  
29 WAREHOUSE FUNCTIONS. Notwithstanding sections 7J.1 and  
30 123.20, subsection 4, and any other applicable provision of  
31 law, the alcoholic beverages division of the department of  
32 commerce shall not employ or add full-time equivalent  
33 positions for purposes of the state assuming the state liquor  
34 warehouse functions performed by a private contractor as of  
35 April 1, 2004. The division shall issue a request for

1 proposals or otherwise utilize a competitive process to select  
2 a successor private contractor to perform the state liquor  
3 warehouse functions.

4 EXPLANATION

5 This bill relates to the sale of liquor by the alcoholic  
6 beverages division of the department of commerce.

7 Code section 123.24 is amended to eliminate the requirement  
8 that the alcoholic beverages division offer the same price on  
9 alcoholic liquors sold by the division to class "E" liquor  
10 control licensees without regard to the quantity of purchase  
11 or distance for delivery.

12 Code section 123.53 is amended to provide for an  
13 appropriation of \$2 million annually, plus any additional  
14 amount appropriated by the general assembly, to the department  
15 of public health for substance abuse prevention programs from  
16 moneys transferred to a special revenue account from sales of  
17 liquor by the division. Current law provides only that the  
18 general assembly establish the amount to be appropriated for  
19 this purpose out of these revenues.

20 The bill also provides that the alcoholic beverages  
21 division shall not employ or add positions for the purpose of  
22 the state assuming the state liquor warehouse functions  
23 previously performed by a private contractor. The bill  
24 requires the division to issue a request for proposals to  
25 select a private contractor to perform state liquor warehouse  
26 functions.

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0731 HSB 187

COMMERCE, REGULATION & LABOR

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T. TAYLOR

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON COMMERCE,  
REGULATION AND LABOR BILL BY  
CHAIRPERSON JENKINS)

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

Passed Senate, 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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1 Section 1. Section 123.3, subsection 36, Code 2005, 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 2005,  
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 2005, 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 2005, 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 530 wines from native wine manufacturers,  
18 and to sell liquors, wine, and beer to bona fide members and  
19 their guests by the individual drink for consumption on the  
20 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, and native only, wine  
25 from class "A" wine permittees or class "B" wine permittees  
26 who also hold class "E" liquor control licenses only, and  
27 native wines from native wine manufacturers, and to sell  
28 liquors, wine, and beer to patrons by the individual drink for  
29 consumption on the premises only. However, beer may also be  
30 sold for consumption off the premises. Each license shall be  
31 effective throughout the premises described in the  
32 application.

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

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

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

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

34 The division may issue a class "E" liquor control license  
35 for premises covered by a liquor control license or wine or

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

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

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

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

33 3. A licensed wholesaler shall keep proper books of  
34 account and records showing the amount of alcoholic liquor  
35 sold by the wholesaler which shall be open to inspection by

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

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

35 a. Submits a written application for the license and

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1 states on the application under oath all of the following:

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

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

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

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

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

17 b. Establishes all of the following:

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

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

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

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

