

House Study Bill 146 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT
OF COMMERCE/ALCOHOLIC
BEVERAGES DIVISION BILL)

A BILL FOR

1 An Act concerning applications for liquor control licenses and
2 micro-distilled spirits, beer, and wine permits.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.32, Code 2013, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. *Misrepresentation of material fact on*
4 *application.* A person who makes a false statement of material
5 fact on an application for a liquor license, micro-distilled
6 spirits permit, wine permit, or beer permit, or who has been a
7 party to the preparation or submission of any false application
8 for such a license or permit, may be denied the license or
9 permit on the grounds of the false statement or submission.

10 NEW SUBSECTION. 1B. *Criminal history record checks.*

11 *a.* The division may request and obtain criminal history
12 data from the department of public safety for an applicant for
13 a liquor license, micro-distilled spirits permit, wine permit,
14 or beer permit under this chapter and any other person required
15 to be listed on the application pursuant to section 123.31,
16 subsection 3 for the purpose of evaluating an applicant's
17 fitness to hold such license or permit.

18 *b.* The division may also require that a full set of
19 fingerprints be provided by an applicant for a liquor license,
20 micro-distilled spirits permit, wine permit, or beer permit
21 issued pursuant to this chapter and by any other person
22 required to be listed on the application pursuant to section
23 123.31, subsection 3 for purposes of conducting a national
24 criminal history check. The division shall provide the
25 fingerprints to the department of public safety for submission
26 through the state criminal history repository to the federal
27 bureau of investigation for the national criminal history
28 check.

29 *c.* Persons subject to a criminal history check conducted
30 pursuant to this subsection shall authorize release of
31 the results of the criminal history check to the division.
32 Failure of the applicant or any other person subject to the
33 requirements of this subsection to fully cooperate in the
34 conduct of a criminal history check shall be grounds to deny
35 the license or permit application.

1 *d.* Criminal history data obtained by the division pursuant
2 to this subsection is confidential and shall not be considered
3 a public record under chapter 22. The division may, however,
4 use such information in a license or permit denial proceeding
5 or other regulatory proceeding brought under this chapter.

6 *e.* The division shall pay the actual cost of all
7 fingerprinting and criminal history checks conducted pursuant
8 to this subsection, if any.

9 Sec. 2. Section 123.32, subsections 2, 7, and 9, Code 2013,
10 are amended to read as follows:

11 2. *Action by local authorities.* The local authority shall
12 either approve or disapprove the issuance of a liquor control
13 license, micro-distilled spirits permit, retail wine permit, or
14 retail beer permit, shall endorse its approval or disapproval
15 on the application and shall forward the application with
16 the necessary fee and bond, if required, to the division.
17 There is no limit upon the number of liquor control licenses,
18 micro-distilled spirits permits, retail wine permits, or retail
19 beer permits which may be approved for issuance by local
20 authorities.

21 7. *Appeal to administrator.* An applicant for a liquor
22 control license, micro-distilled spirits permit, wine
23 permit, or beer permit may appeal from the local authority's
24 disapproval of an application for a license or permit to the
25 administrator. In the appeal the applicant shall be allowed
26 the opportunity to demonstrate in an evidentiary hearing
27 conducted pursuant to chapter 17A that the applicant complies
28 with all of the requirements for holding the license or permit.
29 The administrator may appoint a member of the division or may
30 request an administrative law judge from the department of
31 inspections and appeals to conduct the evidentiary hearing
32 and to render a proposed decision to approve or disapprove
33 the issuance of the license or permit. The administrator may
34 affirm, reverse, or modify the proposed decision. If the
35 administrator determines that the applicant complies with

1 all of the requirements for holding a license or permit, the
2 administrator shall order the issuance of the license or
3 permit. If the administrator determines that the applicant
4 does not comply with the requirements for holding a license or
5 permit, the administrator shall disapprove the issuance of the
6 license or permit.

7 9. *Suspension by local authority.* A liquor control licensee
8 or a micro-distilled spirits, wine, or beer permittee whose
9 license or permit has been suspended or revoked or a civil
10 penalty imposed by a local authority for a violation of this
11 chapter or suspended by a local authority for violation of a
12 local ordinance may appeal the suspension, revocation, or civil
13 penalty to the administrator. The administrator may appoint
14 a member of the division or may request an administrative law
15 judge from the department of inspections and appeals to hear
16 the appeal which shall be conducted in accordance with chapter
17 17A and to issue a proposed decision. The administrator may
18 review the proposed decision upon the motion of a party to the
19 appeal or upon the administrator's own motion in accordance
20 with chapter 17A. Upon review of the proposed decision, the
21 administrator may affirm, reverse, or modify the proposed
22 decision. A liquor control licensee, a micro-distilled
23 spirits, wine, or beer permittee, or a local authority
24 aggrieved by a decision of the administrator may seek judicial
25 review of the decision pursuant to chapter 17A.

26 EXPLANATION

27 This bill concerns applications for liquor control licenses,
28 and micro-distilled spirits, wine, and beer permits under Code
29 section 123.32.

30 New Code section 123.32(1A) provides that a person who makes
31 a false statement of material fact on an application for a
32 license or permit may be denied the license or permit on the
33 grounds of the false statement.

34 New Code section 123.32(1B) provides authority for the
35 alcoholic beverages division to conduct criminal history

1 background checks of applicants for licenses and permits and
2 any other person required to be listed on the application for
3 that license or permit. The bill authorizes the division
4 to obtain criminal history data from the department of
5 public safety and to require applicants to provide a set of
6 fingerprints for purposes of conducting a national criminal
7 history check. The bill provides that criminal history data
8 obtained pursuant to this new provision is confidential but
9 may be used in a license or permit denial or other regulatory
10 proceeding brought by the division. The bill also provides
11 that the division pay the cost of all fingerprinting and
12 criminal history checks conducted pursuant to this new
13 provision.

14 Code section 123.32 is also amended to provide that the
15 requirements and procedures for applications for liquor
16 control licenses and wine and beer permits also apply to
17 micro-distilled spirits permits.