

House File 2431 - Introduced

HOUSE FILE 2431

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2402)

(SUCCESSOR TO HSB 574)

A BILL FOR

1 An Act concerning alcoholic beverage control, including
2 micro-distillery production and sales and dramshop liability
3 insurance requirements, requiring a comprehensive study on
4 alcoholic beverage control, and establishing fees.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.3, subsection 29, Code 2016, is
2 amended to read as follows:

3 29. *“Micro-distillery”* means a business with an operational
4 still which, combining all production facilities of the
5 business, produces and manufactures less than fifty one hundred
6 thousand proof gallons of distilled spirits on an annual basis.

7 Sec. 2. Section 123.28, Code 2016, is amended to read as
8 follows:

9 **123.28 Restrictions on transportation.**

10 It is lawful to transport, carry, or convey alcoholic
11 liquors from the place of purchase by the division to a state
12 warehouse or depot established by the division or from one such
13 place to another and, when so permitted by [this chapter](#), it
14 is lawful for the division, a common carrier, or other person
15 to transport, carry, or convey alcoholic liquor sold from a
16 state warehouse, depot, or point of purchase by the state to
17 any place to which the liquor may be lawfully delivered under
18 this chapter. The division shall deliver alcoholic liquor
19 purchased by class “E” liquor control licensees. Class “E”
20 liquor control licensees may deliver alcoholic liquor purchased
21 by class “A”, “B”, or “C” liquor control licensees and class
22 “C” micro-distilled spirits permittees, and class “A”, “B”,
23 or “C” liquor control licensees and class “C” micro-distilled
24 spirits permittees may transport alcoholic liquor purchased
25 from class “E” liquor control licensees. A common carrier or
26 other person shall not break or open or allow to be broken or
27 opened a container or package containing alcoholic liquor or
28 use or drink or allow to be used or drunk any alcoholic liquor
29 while it is being transported or conveyed, but [this section](#)
30 does not prohibit a private person from transporting individual
31 bottles or containers of alcoholic liquor exempted pursuant to
32 section 123.22 and individual bottles or containers bearing
33 the identifying mark prescribed in [section 123.26](#) which have
34 been opened previous to the commencement of the transportation.
35 This section does not affect the right of a special permit

1 or liquor control license holder to purchase, possess, or
2 transport alcoholic liquors subject to [this chapter](#).

3 Sec. 3. Section 123.32, subsection 1, Code 2016, is amended
4 to read as follows:

5 1. *Filing of application.* An application for a class "A",
6 class "B", class "C", or class "E" liquor control license, for
7 a class "A" micro-distilled spirits permit, for a class "C"
8 micro-distilled spirits permit, for a retail beer permit as
9 provided in [sections 123.128](#) and [123.129](#), or for a class "B",
10 class "B" native, or class "C" native retail wine permit as
11 provided in [section 123.178](#), [123.178A](#), or [123.178B](#), accompanied
12 by the necessary fee and bond, if required, shall be filed with
13 the appropriate city council if the premises for which the
14 license or permit is sought are located within the corporate
15 limits of a city, or with the board of supervisors if the
16 premises for which the license or permit is sought are located
17 outside the corporate limits of a city. An application for
18 a class "D" liquor control license and for a class "A" beer
19 or class "A" wine permit, accompanied by the necessary fee
20 and bond, if required, shall be submitted to the division
21 electronically, or in a manner prescribed by the administrator,
22 which shall proceed in the same manner as in the case of an
23 application approved by local authorities.

24 Sec. 4. Section 123.33, Code 2016, is amended to read as
25 follows:

26 **123.33 Records.**

27 Every holder of a liquor control license or a class "C"
28 micro-distilled spirits permit shall keep a daily record, in
29 printed or electronic format, of the gross receipts of the
30 holder's business. The records required and the premises of
31 the licensee or permittee shall be accessible and open to
32 inspection pursuant to [section 123.30, subsection 1](#), during
33 normal business hours of the licensee or permittee.

34 Sec. 5. Section 123.43A, subsection 2, Code 2016, is amended
35 to read as follows:

1 2. A micro-distillery shall not sell more than ~~one and~~
2 ~~one-half~~ nine liters per person per day, of micro-distilled
3 spirits on the premises of the micro-distillery. In addition,
4 a micro-distillery shall not directly ship micro-distilled
5 spirits for sale at retail. The micro-distillery shall
6 maintain records of individual purchases of micro-distilled
7 spirits at the micro-distillery for three years.

8 Sec. 6. Section 123.43A, Code 2016, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 4A. Notwithstanding any other provision of
11 this chapter, a person engaged in the business of manufacturing
12 micro-distilled spirits may sell micro-distilled spirits
13 it manufactures at retail for consumption on the premises
14 of the manufacturing facility by applying for a class "C"
15 micro-distilled spirits permit with the authority as provided
16 in section 123.43B. A manufacturer of micro-distilled spirits
17 may be granted not more than one class "C" micro-distilled
18 spirits permit.

19 Sec. 7. Section 123.43A, subsection 6, Code 2016, is amended
20 to read as follows:

21 6. The division shall issue no more than three class
22 "A" micro-distilled spirits permits under this section to a
23 person. In addition, a micro-distillery issued a permit under
24 this section shall file with the division, on or before the
25 fifteenth day of each calendar month, all documents filed by
26 the micro-distillery with the alcohol and tobacco tax and
27 trade bureau of the United States department of the treasury,
28 including all production, storage, and processing reports.

29 Sec. 8. Section 123.43A, subsection 7, Code 2016, is amended
30 by striking the subsection and inserting in lieu thereof the
31 following:

32 7. A micro-distillery may sell the micro-distilled spirits
33 it manufactures to customers outside the state.

34 Sec. 9. NEW SECTION. 123.43B Authority under class "C"
35 micro-distilled spirits permit.

1 1. A person holding a class "C" micro-distilled spirits
2 permit for the same location for which the person holds a
3 class "A" micro-distilled spirits permit may sell the person's
4 micro-distilled spirits only at retail to patrons by the
5 individual drink for consumption on the licensed premises where
6 the spirits were manufactured.

7 2. A person holding a class "C" micro-distilled spirits
8 permit shall purchase micro-distilled spirits the person
9 manufactures from a class "E" liquor control licensee only.

10 3. A class "C" micro-distilled spirits permit for a
11 micro-distillery shall be issued and renewed annually upon
12 payment of a fee of two hundred fifty dollars.

13 4. A person holding a class "C" micro-distilled spirits
14 permit may also sell and dispense micro-distilled spirits the
15 person manufactures to patrons on Sunday for consumption on the
16 premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m.
17 on the following Monday.

18 5. Unless otherwise provided by this chapter, the
19 provisions of this chapter applicable to liquor control
20 licenses shall also apply to class "C" micro-distilled spirits
21 permits.

22 Sec. 10. NEW SECTION. 123.43C Class "C" micro-distilled
23 spirits permit — application.

24 1. Except as otherwise provided in this chapter, a class "C"
25 micro-distilled spirits permit shall be issued to a person who
26 complies with all of the following:

27 a. Submits electronically, or in a manner prescribed by the
28 administrator, an application for the permit and states on the
29 application under oath:

30 (1) 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 (2) 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 (3) The location of the class "A" micro-distillery where the
2 applicant intends to use the permit.

3 (4) The name of the owner of the premises, and if that owner
4 is not the applicant, that the applicant is the actual lessee
5 of the premises.

6 *b.* Establishes all of the following:

7 (1) That the applicant meets the test of good moral
8 character as provided in section 123.3, subsection 34.

9 (2) That the premises for which the permit is sought is and
10 will continue to be equipped with sufficient tables and seats
11 to accommodate twenty-five persons at one time, and in areas
12 where such business is permitted by any valid zoning ordinance
13 or will be so permitted on the effective date of the permit.

14 (3) That the premises where the applicant intends to operate
15 conform to all applicable laws and health and fire regulations.

16 (4) That the applicant is not engaged in the business of
17 manufacturing beer.

18 *c.* Consents to inspection as required in section 123.30,
19 subsection 1.

20 2. A manufacturer of micro-distilled spirits may be granted
21 a class "C" micro-distilled spirits permit regardless of
22 whether that manufacturer is also a manufacturer of native wine
23 pursuant to a class "A" wine permit.

24 Sec. 11. Section 123.56, subsection 5, Code 2016, is amended
25 to read as follows:

26 5. Notwithstanding any other provision of [this chapter](#), a
27 person engaged in the business of manufacturing native wine may
28 sell native wine at retail for consumption on the premises of
29 the manufacturing facility by applying for a class "C" native
30 wine permit as provided in [section 123.178B](#). A manufacturer of
31 native wine may be granted not more than one class "C" native
32 wine permit. A manufacturer of native wine may be granted
33 a class "C" native wine permit regardless of whether that
34 manufacturer is also a manufacturer of micro-distilled spirits
35 pursuant to a class "A" micro-distilled spirits permit.

1 Sec. 12. Section 123.92, subsection 2, paragraph a, Code
2 2016, is amended to read as follows:

3 a. Every liquor control licensee, ~~and~~ class "B" beer
4 permittee, class "C" native wine permittee, and class
5 "C" micro-distilled spirits permittee, except a class "E"
6 liquor control licensee, shall furnish proof of financial
7 responsibility by the existence of a liability insurance
8 policy in an amount determined by the division. If an insurer
9 provides dramshop liability insurance at a new location to
10 a licensee or permittee who has a positive loss experience
11 at other locations for which such insurance is provided by
12 the insurer, and the insurer bases premium rates at the new
13 location on the negative loss history of the previous licensee
14 or permittee at that location, the insurer shall examine and
15 consider adjusting the premium for the new location not less
16 than thirty months after the insurance is issued, based on the
17 loss experience of the licensee or permittee at that location
18 during that thirty-month period of time.

19 Sec. 13. ALCOHOLIC BEVERAGE CONTROL — COMPREHENSIVE STUDY.

20 1. The alcoholic beverages division of the department
21 of commerce shall conduct a comprehensive study concerning
22 alcoholic beverage control, to include consideration of the
23 manner of properly balancing appropriate regulation of the
24 manufacturing, distribution, and sale of alcoholic liquor,
25 wine, and beer in this state with emerging trends in the
26 industry.

27 2. In conducting the study, the division shall consider,
28 among any other relevant issues the division identifies
29 for study, issues relating to the three-tiered system as it
30 impacts the ability of manufacturers and retailers to meet
31 changing marketplace conditions and business opportunities, the
32 marketing of beer, wine, and alcoholic liquor manufactured in
33 this state, and the manner of licensing and regulating liquor
34 licensees and wine and beer permittees in this state.

35 3. The division shall submit an interim report on the study,

1 including any findings and recommendations, to the general
2 assembly by March 1, 2017. The division shall submit a final
3 report on the results of the study, including any findings and
4 recommendations, to the general assembly by January 5, 2018.

5

EXPLANATION

6

The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8

This bill concerns micro-distilleries and the authority of
9 micro-distilleries and micro-distilled spirits manufacturers
10 and makes dramshop liability insurance requirements applicable
11 to certain native wine and micro-distilled spirits permittees.

12 Code section 123.3(29), concerning the definition of a
13 micro-distillery, is amended to provide that a micro-distillery
14 is a business that produces less than 100,000 proof gallons of
15 distilled spirits instead of the current limit of 50,000.

16 Code section 123.43A, providing for a class "A"
17 micro-distilled spirits permit, is amended. The bill increases
18 the current one and one-half liters per day limit on sales of
19 micro-distilled spirits on the premises to nine liters per day.
20 The bill also allows the micro-distillery to sell the spirits
21 it manufactures to customers outside the state. The bill also
22 allows the micro-distillery to sell the spirits it manufactures
23 for consumption on the premises of the manufacturing facility
24 by applying for a new class "C" micro-distilled spirits permit.
25 The bill limits a manufacturer to no more than one of the new
26 permits.

27 Code provisions governing restrictions on transportation
28 (Code section 123.28), applications to local authorities for
29 certain permits (Code section 123.32), and records (Code
30 section 123.33), are made applicable to the new class "C"
31 micro-distilled spirits permit.

32 New Code section 123.43B establishes the authority for a
33 class "C" micro-distilled spirits permit. The Code section
34 provides that the permit shall allow the manufacturer to sell
35 its micro-distilled spirits only at retail to patrons by the

1 individual drink for consumption on the licensed premises where
2 it was manufactured, and that the person holding the permit
3 shall purchase micro-distilled spirits it manufactures from a
4 class "E" liquor control licensee only. The new Code section
5 also allows a person holding a class "C" micro-distilled
6 spirits permit and the new class "A" micro-distilled spirits
7 permit to sell and dispense micro-distilled spirits the person
8 manufactures on Sunday. The annual fee for the permit shall
9 be \$250.

10 New Code section 123.43C provides the information necessary
11 for a person to apply for a class "C" micro-distilled
12 spirits permit. The bill requires the applicant to submit
13 information regarding the applicant and the location of the
14 micro-distillery. The application shall also provide that the
15 applicant is of good moral character and that the premises for
16 which the permit is sought is authorized to sell spirits for
17 consumption on the premises by applicable zoning ordinance and
18 is of sufficient size. The bill provides that the applicant
19 may be a manufacturer of native wine but shall not also
20 manufacture beer.

21 Code section 123.56, concerning native wines, is amended to
22 allow a manufacturer of native wine to be granted a class "C"
23 native wine permit regardless of whether the manufacturer also
24 manufactures micro-distilled spirits.

25 Code section 123.92, concerning the dramshop Act, is amended
26 to provide that a class "C" native wine permittee and a class
27 "C" micro-distilled spirits permittee shall furnish proof
28 of financial responsibility by having a liability insurance
29 policy.

30 The bill requires the alcoholic beverages division of
31 the department of commerce to conduct a comprehensive study
32 concerning alcoholic beverage control, and to submit to the
33 general assembly an interim report on the study by March 1,
34 2017, and a final report by January 5, 2018.