

House Study Bill 233 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SANDS)

A BILL FOR

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

1 Section 1. Section 123.3, subsection 29, Code 2015, 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 nine
6 hundred thousand proof gallons of distilled spirits on an
7 annual basis.

8 Sec. 2. Section 123.28, Code 2015, is amended to read as
9 follows:

10 **123.28 Restrictions on transportation.**

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

1 This section does not affect the right of a special permit
2 or liquor control license holder to purchase, possess, or
3 transport alcoholic liquors subject to this chapter.

4 Sec. 3. Section 123.32, subsection 1, Code 2015, is amended
5 to read as follows:

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

25 Sec. 4. Section 123.33, Code 2015, is amended to read as
26 follows:

27 **123.33 Records.**

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

35 Sec. 5. Section 123.43A, subsection 2, Code 2015, is amended

1 to read as follows:

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

9 Sec. 6. Section 123.43A, Code 2015, is amended by adding the
10 following new subsection:

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

20 Sec. 7. Section 123.43A, subsection 6, Code 2015, is amended
21 to read as follows:

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

30 Sec. 8. Section 123.43A, subsection 7, Code 2015, is amended
31 by striking the subsection and inserting in lieu thereof the
32 following:

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

35 Sec. 9. NEW SECTION. 123.43B Authority under class "C"

1 **micro-distilled spirits permit.**

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

7 2. A person holding a class "C" micro-distilled spirits
8 permit shall purchase micro-distilled spirits it manufactures
9 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 and a class "A" micro-distilled spirits permit whose
15 primary purpose is manufacturing distilled spirits may purchase
16 beer from a wholesaler holding a class "A" beer permit for sale
17 at retail and may purchase wine from a wholesaler holding a
18 class "A" wine permit for sale at retail.

19 **Sec. 10. NEW SECTION. 123.43C Class "C" micro-distilled**
20 **spirits permit — application contents.**

21 Except as otherwise provided in this chapter, a class "C"
22 micro-distilled spirits permit shall be issued to a person who
23 complies with all of the following:

24 1. Submits electronically, or in a manner prescribed by the
25 administrator, an application for the permit and states on the
26 application under oath:

27 a. The name and place of residence of the applicant and
28 the length of time the applicant has lived at the place of
29 residence.

30 b. That the applicant is a citizen of the state of Iowa,
31 or if a corporation, that the applicant is authorized to do
32 business in Iowa.

33 c. The location of the class "A" micro-distillery where the
34 applicant intends to use the permit.

35 d. The name of the owner of the premises, and if that owner

1 is not the applicant, that the applicant is the actual lessee
2 of the premises.

3 2. Establishes all of the following:

4 a. That the applicant meets the test of good moral character
5 as provided in section 123.3, subsection 34.

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

11 c. That the premises where the applicant intends to operate
12 conform to all applicable laws and health and fire regulations.

13 d. Consents to inspection as required in section 123.30,
14 subsection 1.

15 Sec. 11. Section 123.56, subsection 5, Code 2015, is amended
16 to read as follows:

17 5. Notwithstanding any other provision of this chapter, a
18 person engaged in the business of manufacturing native wine may
19 sell native wine at retail for consumption on the premises of
20 the manufacturing facility by applying for a class "C" native
21 wine permit as provided in section 123.178B. A manufacturer of
22 native wine may be granted not more than one class "C" native
23 wine permit. In addition, a holder of a class "C" native wine
24 permit that is also a holder of a class "C" micro-distilled
25 spirits permit may sell native wine at retail for consumption
26 on the premises at the same location where the holder sells its
27 micro-distilled spirits to patrons pursuant to sections 123.43A
28 and 123.43B.

29 Sec. 12. Section 123.92, subsection 2, paragraph a, Code
30 2015, is amended to read as follows:

31 a. Every liquor control licensee, and class "B" beer
32 permittee, class "C" native wine permittee, and class
33 "C" micro-distilled spirits permittee, except a class "E"
34 liquor control licensee, shall furnish proof of financial
35 responsibility by the existence of a liability insurance

1 policy in an amount determined by the division. If an insurer
2 provides dramshop liability insurance at a new location to
3 a licensee or permittee who has a positive loss experience
4 at other locations for which such insurance is provided by
5 the insurer, and the insurer bases premium rates at the new
6 location on the negative loss history of the previous licensee
7 or permittee at that location, the insurer shall examine and
8 consider adjusting the premium for the new location not less
9 than thirty months after the insurance is issued, based on the
10 loss experience of the licensee or permittee at that location
11 during that thirty-month period of time.

12

EXPLANATION

13

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

14

15 This bill concerns micro-distilleries and the authority of
16 micro-distilleries and micro-distilled spirits manufacturers
17 and makes dramshop liability insurance requirements applicable
18 to certain native wine and micro-distilled spirits permittees.

19 Code section 123.3(29), concerning the definition of a
20 micro-distillery, is amended to provide that a micro-distillery
21 is a business that produces less than 900,000 proof gallons of
22 distilled spirits instead of the current limit of 50,000.

23 Code section 123.43A, providing for a class "A"
24 micro-distilled spirits permit, is amended. The bill
25 eliminates the current one and one-half liters per day limit
26 on sales of micro-distilled spirits on the premises. The
27 bill also allows the micro-distillery to sell the spirits it
28 manufactures to customers outside the state. The bill also
29 allows the micro-distillery to sell the spirits it manufactures
30 for consumption on the premises of the manufacturing facility
31 by applying for a new class "C" micro-distilled spirits permit.
32 The bill limits a manufacturer to no more than one of the new
33 permits.

34 Code provisions governing restrictions on transportation
35 (123.28), applications to local authorities for certain permits

1 (123.32), and records (123.33), are made applicable to the new
2 class "C" micro-distilled spirits permit.

3 New Code section 123.43B establishes the authority for a
4 class "C" micro-distilled spirits permit. The Code section
5 provides that the permit shall allow the manufacturer to sell
6 its micro-distilled spirits only at retail to patrons by the
7 individual drink for consumption on the licensed premises where
8 it was manufactured, and that the person holding the permit
9 shall purchase micro-distilled spirits it manufactures from a
10 class "E" liquor control licensee only. The new Code section
11 also allows a person holding a class "C" micro-distilled
12 spirits permit and a class "A" micro-distilled spirits permit
13 to purchase beer and wine from a wholesaler with an appropriate
14 class "A" beer or wine permit for sale at retail. The annual
15 fee for the permit shall be \$250.

16 New Code section 123.43C provides for the information
17 necessary for a person to apply for a class "C" micro-distilled
18 spirits permit. The bill requires the applicant to submit
19 information regarding the applicant and the location of the
20 micro-distillery. The application shall also provide that the
21 applicant is of good moral character and that the premises for
22 which the permit is sought is authorized to sell spirits for
23 consumption on the premises by applicable zoning ordinance and
24 is of sufficient size.

25 Code section 123.56, concerning native wines, is amended
26 to allow a holder of a class "C" native wine permit that also
27 is a holder of a class "C" micro-distilled spirits permit to
28 sell native wine at retail for consumption on the premises at
29 the same location where the holder sells its micro-distilled
30 spirits.

31 Code section 123.92, concerning the dramshop Act, is amended
32 to provide that a class "C" native wine permittee and a class
33 "C" micro-distilled spirits permittee shall furnish proof
34 of financial responsibility by having a liability insurance
35 policy.