

**Senate Study Bill 3127 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL BY  
CHAIRPERSON SMITH)

**A BILL FOR**

1 An Act relating to public safety nuisances concerning licensed  
2 premises where alcoholic beverages, wine, or beer is sold or  
3 consumed.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 123.56 Public safety nuisances —  
2 procedure.

3 1. A public safety nuisance exists at a licensed premises  
4 for purposes of this section when it is established by clear  
5 and convincing evidence that an owner, manager, employee,  
6 contemporaneous patron or guest of a premises licensed under  
7 this chapter commits any of the following acts either on the  
8 premises or within one thousand five hundred feet of the  
9 premises:

10 a. Unlawfully discharges a firearm or uses an offensive  
11 weapon, as defined in section 724.1, regardless of whether it  
12 inflicts injury or death.

13 b. Assaults another person with a dangerous weapon as  
14 defined in section 702.7 resulting in injury or death.

15 c. Engages in a riot as defined in section 723.1 on at  
16 least three separate days within any twelve-month period in  
17 which a peace officer responded for purposes of dispersing the  
18 participants in the riot. A person who willingly joins in or  
19 remains a part of a riot need not be the same person for each  
20 riot incident.

21 2. If the county attorney or city attorney where the  
22 licensed premises is located has reason to believe a public  
23 safety nuisance that constitutes a serious threat to the  
24 public safety exists, the county attorney or city attorney, or  
25 attorney acting at the direction of the county attorney or city  
26 attorney, may file a suit in equity in district court without  
27 bond seeking abatement of a public safety nuisance arising  
28 from a premises licensed under this chapter pursuant to the  
29 requirements of this section.

30 3. An action filed pursuant to subsection 2 shall be given  
31 priority over other business pending before the district court  
32 and the trial shall begin within forty-five days after the  
33 filing of the action. The petitioner may seek a temporary  
34 injunction prior to trial.

35 4. In an action seeking abatement of a public safety

1 nuisance as provided in this section, evidence of other  
2 current violations of this chapter may be received by the  
3 court and considered in determining the remedial provisions  
4 of any abatement order. In addition, evidence of prior  
5 sanctions, violations of law, nuisance behavior, or general  
6 reputation relating to the licensed premises may be admissible  
7 in determining the reasonableness of remedial provisions of an  
8 abatement order. However, evidence of a prior conviction of  
9 the licensee, managers, employees, or contemporaneous patrons  
10 and guests is not necessary for purposes of considering or  
11 issuing an abatement order under this section. In an action  
12 under this section, the administrator may submit to the court  
13 a report as evidence on behalf of the division regarding  
14 the compliance history of the licensee or permittee for  
15 consideration by the court.

16 5. If the district court finds that a public safety nuisance  
17 exists, the court may enter judgment declaring the existence  
18 of the nuisance and order such remedial action as the court  
19 determines reasonable to abate the nuisance. The abatement  
20 order may take the form of an injunction. The duration of an  
21 abatement order may be up to two years. Remedial action may  
22 include but is not limited to temporary closure of the licensed  
23 premises, revocation of the license for such period of time as  
24 is consistent with section 123.40, required change in business  
25 practice or operations, or posting of a bond. If a bond is  
26 ordered and posted, the bond shall be subject to forfeiture,  
27 in whole or in part, for any further actions contrary to the  
28 abatement order.

29 6. This section shall be the exclusive method for  
30 establishing and abating a public safety nuisance as described  
31 in this section.

32 EXPLANATION

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

35 This bill establishes the requirements for establishing and

1 abating a public safety nuisance under Code chapter 123.

2 New Code section 123.56 provides that a public safety  
3 nuisance exists when it is established by clear and convincing  
4 evidence that an owner, manager, employee, contemporaneous  
5 patron, or guest of a premises licensed under Code chapter 123  
6 unlawfully discharges a firearm or uses an offensive weapon,  
7 assaults another person with a dangerous weapon, or engages  
8 in a riot on at least three separate days within any 12-month  
9 period, on the premises or within 1,500 feet of the premises.

10 The bill provides that if the county attorney or city  
11 attorney where the licensed premises is located believes a  
12 public safety nuisance exists, the county attorney or city  
13 attorney, or attorney acting at the direction of the county  
14 attorney or city attorney, may file a suit in equity in  
15 district court without bond seeking abatement of the public  
16 safety nuisance. The bill provides that a public safety  
17 nuisance action shall be given priority over other business  
18 pending before the district court and the trial shall begin  
19 within 45 days after the filing of the action. The bill then  
20 describes evidence that may be considered in an action seeking  
21 abatement of the public safety nuisance. Finally, the bill  
22 provides that if the district court finds that a public safety  
23 nuisance exists, the court may enter judgment declaring the  
24 existence of the nuisance and order such remedial action as the  
25 court determines reasonable to abate the nuisance. The bill  
26 describes appropriate remedial action that may be taken by the  
27 district court.

28 The bill also provides that the new Code section shall be the  
29 exclusive method for establishing and abating a public safety  
30 nuisance as described in the new Code section.