

House File 83 - Introduced

HOUSE FILE 83

BY JONES

A BILL FOR

1 An Act providing for the direct shipment of alcoholic liquor
2 and including effective date provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.28, subsection 5, Code 2023, is
2 amended to read as follows:

3 5. **This section** does not affect the right of a retail
4 alcohol license holder to purchase, possess, or transport
5 alcoholic liquors subject to **this chapter**. In addition, this
6 section shall not impact the direct shipment of alcoholic
7 liquor as regulated by section 123.42A.

8 Sec. 2. Section 123.32, subsection 1, paragraph b, Code
9 2023, is amended by adding the following new subparagraph:
10 NEW SUBPARAGRAPH. (4A) An alcoholic liquor direct shipper
11 license as provided in section 123.42A.

12 Sec. 3. Section 123.32, subsection 1, paragraph b,
13 subparagraph (10), Code 2023, is amended to read as follows:

14 (10) ~~A wine~~ An alcoholic beverage carrier permit as provided
15 in **section 123.188**.

16 Sec. 4. Section 123.41, subsection 1, Code 2023, is amended
17 to read as follows:

18 1. Each completed application to obtain or renew a
19 manufacturer's license shall be submitted to the division
20 electronically, or in a manner prescribed by the administrator,
21 and shall be accompanied by a fee of three hundred dollars
22 payable to the division. The administrator may in accordance
23 with **this chapter** grant and issue to a manufacturer a
24 manufacturer's license, valid for a one-year period after date
25 of issuance, which shall allow the manufacture, storage, and
26 ~~wholesale disposition~~ and sale of alcoholic liquors to the
27 division and to customers outside of the state pursuant to the
28 laws of that jurisdiction.

29 Sec. 5. Section 123.41, Code 2023, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 1A. A manufacturer of alcoholic liquor
32 may ship alcoholic liquor in closed containers to individual
33 purchasers inside this state by obtaining an alcoholic liquor
34 direct shipper license pursuant to section 123.42A.

35 Sec. 6. NEW SECTION. **123.42A Direct shipment of alcoholic**

1 liquor — license and requirements.

2 1. An alcoholic liquor manufacturer licensed or permitted
3 pursuant to laws regulating alcoholic beverages in this state
4 or another state may apply for an alcoholic liquor direct
5 shipper license, as provided in this section. For the purposes
6 of this section, an "*alcoholic liquor manufacturer*" means a
7 business with an operating still which distills spirits, barrel
8 matures spirits for a period of two years on the licensed
9 premises of the distillery where matured, or blends or mixes
10 spirits comprised solely of spirits distilled or barrel matured
11 for a period of two years on the licensed premises of the
12 distillery, and which, combining all production facilities
13 of the business, produces and manufactures not more than one
14 hundred thousand proof gallons of native distilled spirits on
15 an annual basis.

16 2. a. Only an alcoholic liquor manufacturer that holds
17 an alcoholic liquor direct shipper license issued pursuant to
18 this section shall sell alcoholic liquor at retail for direct
19 shipment to any person within this state. This section shall
20 not prohibit an authorized retail licensee or permittee from
21 delivering alcoholic liquor pursuant to section 123.46A.

22 b. An alcoholic liquor manufacturer applying for an
23 alcoholic liquor direct shipper license shall submit an
24 application for the license electronically, or in a manner
25 prescribed by the administrator, accompanied by a true copy
26 of the manufacturer's current alcoholic beverage license or
27 permit issued by the state where the manufacturer is primarily
28 located, a copy of the manufacturer's basic permit issued by
29 the alcohol and tobacco tax and trade bureau of the United
30 States department of the treasury, and documents filed by the
31 manufacturer with the alcohol and tobacco tax and trade bureau
32 of the United States department of the treasury that show the
33 total number of proof gallons of distilled spirits produced and
34 manufactured by the manufacturer for the preceding calendar
35 year.

1 *c.* An application submitted pursuant to paragraph "b" shall
2 be accompanied by a license fee in the amount of twenty-five
3 dollars.

4 *d.* A license issued pursuant to this section may be
5 renewed annually by submitting a renewal application with the
6 administrator in a manner prescribed by the administrator,
7 accompanied by the twenty-five dollar license fee.

8 3. The direct shipment of alcoholic liquor pursuant to this
9 section shall be subject to the following requirements and
10 restrictions:

11 *a.* Alcoholic liquor shall only be shipped to a resident of
12 this state who is at least twenty-one years of age, for the
13 resident's personal use and consumption and not for resale.

14 *b.* Alcoholic liquor subject to direct shipping shall be
15 properly registered with the federal alcohol and tobacco tax
16 and trade bureau, and manufactured on the licensed premises of
17 the alcoholic liquor direct shipper licensee.

18 *c.* Alcoholic liquor subject to direct shipping shall
19 be properly registered with the division. Products which
20 are not listed for sale by the division must be registered
21 electronically with the division for direct shipping. This
22 registration will include the name of the manufacturer, the
23 name of the brand, the standard of fill, the wholesale price,
24 and other information as requested by the division. The
25 registration shall be updated as necessary to ensure the
26 division possesses an accurate, current registration.

27 *d.* All containers of alcoholic liquor shipped directly to a
28 resident of this state shall be conspicuously labeled with the
29 words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER
30 REQUIRED FOR DELIVERY" or shall be conspicuously labeled with
31 alternative wording preapproved by the administrator.

32 *e.* All containers of alcoholic liquor shipped directly
33 to a resident of this state shall be shipped by a holder of
34 an alcoholic beverage carrier permit as provided in section
35 123.188.

1 *f.* Shipment of alcoholic liquor pursuant to this subsection
2 does not require a refund value for beverage container control
3 purposes under chapter 455C.

4 4. An alcoholic liquor direct shipper licensee shipping
5 alcoholic liquor to this state shall remit the following amount
6 to the division in a manner as directed by the division:

7 *a.* For alcoholic liquor that is listed for sale by the
8 division, an amount equivalent to fifty percent of the listed
9 wholesale price.

10 *b.* For alcoholic liquor that is not listed for sale
11 by the division, an amount equivalent to fifty percent of
12 the wholesale price as registered with the division under
13 subsection 3.

14 5. Each alcoholic liquor direct shipper licensee shall make
15 a report under oath to the division electronically, or in a
16 manner prescribed by the administrator, on or before the tenth
17 day of each month, which includes the following information:

18 *a.* The products and quantities shipped directly to residents
19 of this state in the preceding month.

20 *b.* The name and address of the individuals to whom the
21 alcoholic liquor was sold in each sale.

22 *c.* The wholesale price of the alcoholic liquor sold.

23 *d.* The purchase price of the alcoholic liquor sold and
24 the amount of taxes charged to the individual purchasing the
25 alcoholic liquor.

26 *e.* The alcoholic beverage carrier permittee who delivered
27 the shipment.

28 *f.* All documents filed by the alcoholic liquor direct
29 shipper licensee with the alcohol and tobacco tax and trade
30 bureau of the United States department of treasury for the
31 preceding month, including all production, storage, and
32 processing reports.

33 6. The license holder at the time of filing the report as
34 required by subsection 5 shall pay to the division the amount
35 as required pursuant to subsection 4. A penalty of ten percent

1 of the amount due shall be assessed and collected if the report
2 required to be filed pursuant to this section and the amount
3 required to be paid as provided by subsection 4 is not filed
4 and the amount paid within the time required by this section.

5 7. An alcoholic liquor direct shipper licensee shall be
6 deemed to have consented to the jurisdiction of the division or
7 any other agency or court in this state concerning enforcement
8 of this section and any related laws, rules, or regulations. A
9 license holder shall allow the division to perform an audit of
10 shipping records upon request.

11 8. A violation of this section shall subject the licensee
12 to the general penalties provided in this chapter and shall
13 constitute grounds for imposition of a civil penalty or
14 suspension or revocation of the license pursuant to section
15 123.39.

16 Sec. 7. Section 123.43A, subsection 2, Code 2023, is amended
17 to read as follows:

18 2. A native distillery shall not sell more than nine
19 liters per person per day, of native distilled spirits on
20 the premises of the native distillery. However, a native
21 distillery ~~shall not directly~~ may ship native distilled spirits
22 for sale at retail manufactured by the native distillery in
23 closed containers to individual purchasers inside the state by
24 obtaining an alcoholic liquor direct shipper license pursuant
25 to section 123.42A. The native distillery shall maintain
26 records of individual purchases of native distilled spirits at
27 the native distillery for three years.

28 Sec. 8. Section 123.43A, subsection 7, Code 2023, is amended
29 to read as follows:

30 7. A native distillery may sell the native distilled spirits
31 it manufactures to customers outside the state, pursuant to the
32 laws of that jurisdiction.

33 Sec. 9. Section 123.46A, subsection 5, Code 2023, is amended
34 to read as follows:

35 5. Nothing in this section shall impact the direct shipment

1 of alcoholic liquor as regulated by section 123.42A or the
2 direct shipment of wine as regulated by section 123.187.

3 Sec. 10. Section 123.187, subsection 3, paragraph d, Code
4 2023, is amended to read as follows:

5 *d.* All containers of wine shipped directly to a resident of
6 this state shall be shipped by a holder of ~~a wine~~ an alcoholic
7 beverage carrier permit as provided in section 123.188.

8 Sec. 11. Section 123.188, subsections 1, 2, and 4, Code
9 2023, are amended to read as follows:

10 1. A person desiring to deliver alcoholic liquor subject
11 to direct shipment within this state pursuant to section
12 123.42A and wine subject to direct shipment within this state
13 pursuant to section 123.187 shall submit an application for a
14 ~~wine~~ an alcoholic beverage carrier permit electronically, or
15 in a manner prescribed by the administrator, which shall be
16 accompanied by a fee in the amount of one hundred dollars.

17 2. The administrator may in accordance with this chapter
18 issue a ~~wine~~ an alcoholic beverage carrier permit which shall
19 be valid for one year from the date of issuance unless it is
20 sooner suspended or revoked for a violation of this chapter.

21 4. The delivery of alcoholic liquor and wine pursuant to
22 this section shall be subject to the following requirements and
23 restrictions:

24 *a.* ~~A wine~~ An alcoholic beverage carrier permittee shall not
25 deliver alcoholic liquor or wine to any person under twenty-one
26 years of age, or to any person who either is or appears to be in
27 an intoxicated state or condition.

28 *b.* ~~A wine~~ An alcoholic beverage carrier permittee shall
29 obtain valid proof of identity and age prior to delivery,
30 and shall obtain the signature of an adult as a condition of
31 delivery.

32 *c.* ~~A wine~~ An alcoholic beverage carrier permittee shall
33 maintain records of alcoholic liquor and wine shipped which
34 include the permit number and name of the alcoholic liquor
35 and wine manufacturer, quantity of alcoholic liquor and wine

1 shipped, recipient's name and address, and an electronic or
2 paper form of signature from the recipient of the alcoholic
3 liquor and wine. Records shall be submitted to the division
4 on a monthly basis in a form and manner to be determined by the
5 division.

6 Sec. 12. EFFECTIVE DATE. This Act takes effect January 1,
7 2024.

8 EXPLANATION

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

11 This bill allows for the direct shipment of alcoholic liquor
12 within the state.

13 New Code section 123.42A provides for the direct shipment of
14 alcoholic liquor and provides for an alcoholic liquor direct
15 shipper license. The bill provides that only alcoholic liquor
16 manufacturers that produce and manufacture not more than
17 100,000 proof gallons of native distilled spirits on an annual
18 basis are eligible for this license. Provisions governing the
19 direct shipment of wine and the wine direct shipper permit are
20 generally made applicable to the new Code section providing
21 for the direct shipment of alcoholic liquor. In addition to
22 these requirements, the new Code section requires all alcoholic
23 liquor subject to direct shipping to be properly registered
24 with the alcoholic beverages division and that products which
25 are not listed for sale by the division must be registered
26 to include information on the name of the manufacturer, the
27 name of the brand, the standard of fill, the wholesale price,
28 and other information as requested by the division. The
29 new Code section also requires each alcoholic liquor direct
30 shipper licensee to make a monthly report to the alcoholic
31 beverages division that lists the products and quantities
32 shipped directly to residents of this state in the preceding
33 month, the name and address of the individuals to whom the
34 alcoholic liquor was sold in each sale, the wholesale price of
35 the alcoholic liquor sold, the purchase price and taxes charged

1 of the alcoholic liquor sold, the alcoholic beverage carrier
2 permittee who delivered each shipment, and documents filed by
3 the licensee with the alcohol and tobacco tax and trade bureau
4 of the United States department of treasury for the preceding
5 month, including all production, storage, and processing
6 reports. Finally, the new Code section provides that an
7 alcoholic liquor direct shipper licensee shall remit an amount
8 to the alcoholic beverages division depending on whether the
9 alcoholic liquor shipped is listed for sale by the division.
10 If the alcoholic liquor is listed for sale by the division, the
11 permittee shall remit to the division an amount equivalent to
12 50 percent of the wholesale price paid by the division for the
13 alcoholic liquor. If the alcoholic liquor is not listed for
14 sale by the division, the permittee shall remit to the division
15 an amount equivalent to 50 percent of the wholesale price of
16 the alcoholic liquor as registered with the division. The bill
17 provides that a penalty of 10 percent of the amount due shall
18 be assessed and collected if the amount required to be paid to
19 the division as provided by the bill is not paid within the
20 time required.

21 The bill allows a manufacturer of alcoholic liquor and a
22 native distillery to ship alcoholic liquor or native distilled
23 spirits, as applicable, to individual purchasers inside this
24 state by obtaining an alcoholic liquor direct shipper license
25 as established in the bill.

26 Code section 123.188, providing for a wine carrier permit,
27 is amended to provide for the direct shipment of alcoholic
28 liquor as provided by the bill.

29 The bill takes effect January 1, 2024.