

Senate File 2425 - Introduced

SENATE FILE 2425

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3195)

A BILL FOR

1 An Act relating to civil liability and associated insurance
2 requirements of alcoholic beverage licensees or permittees
3 who also sell or serve consumable hemp products.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.3, subsection 15, Code 2024, is
2 amended to read as follows:

3 15. *“Completed application”* means an application where all
4 necessary fees have been paid in full, any required bonds have
5 been submitted, the applicant has provided all information
6 requested by the department, and the application meets the
7 requirements of [section 123.92, subsection 2, or section](#)
8 [123.92A, subsection 2](#), if applicable.

9 Sec. 2. Section 123.3, Code 2024, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 15A. *“Consumable hemp product”* means the
12 same as defined in section 204.2.

13 Sec. 3. Section 123.10, subsection 14, Code 2024, is amended
14 to read as follows:

15 14. Prescribing the uniform fee to be assessed against
16 a retail alcohol licensee, except a class “B”, special class
17 “B”, or class “E” retail alcohol licensee, to cover the
18 administrative costs incurred by the department resulting from
19 the failure of the licensee to maintain dramshop liability
20 insurance coverage pursuant to [section 123.92, subsection 2,](#)
21 [paragraph “a”, or dramshop hemp liability insurance coverage](#)
22 [pursuant to section 123.92A, subsection 2, paragraph “a”.](#)

23 Sec. 4. NEW SECTION. **123.92A Civil liability for dispensing**
24 **or sale and service of any consumable hemp product (dramshop**
25 **hemp) — liability insurance.**

26 1. a. Subject to the limitation amount specified in
27 paragraph “c”, if applicable, any third party who is not the
28 intoxicated person who caused the injury at issue and who
29 is injured in person or property or means of support by an
30 intoxicated person or resulting from the intoxication of a
31 person, has a right of action for damages actually sustained,
32 severally or jointly against any licensee or permittee, whether
33 or not the license or permit was issued by the department or by
34 the licensing authority of any other state, who sold and served
35 any consumable hemp product, if the licensee or permittee is

1 also registered to sell consumable hemp products under section
2 204.7 or by another jurisdiction, directly to the intoxicated
3 person, provided that the person was visibly intoxicated at the
4 time of the sale or service.

5 *b.* If the injury was proximately caused by an intoxicated
6 person, a permittee or licensee may establish as an affirmative
7 defense that the intoxication did not contribute to the
8 injurious action of the person.

9 *c.* In addition to the amount recoverable under section
10 123.92, subsection 1, paragraph "c", the total amount
11 recoverable by each plaintiff in any civil action for
12 noneconomic damages for personal injury, whether in tort,
13 contract, or otherwise, against a licensee or permittee who
14 sold and served any consumable hemp product giving rise to such
15 civil action, regardless of whether the licensee or permittee
16 also sold and served any alcoholic beverage giving rise to such
17 civil action, shall be limited to five hundred thousand dollars
18 for any injury or death of a person, unless the jury determines
19 that there is a substantial or permanent loss or impairment of
20 a bodily function, substantial disfigurement, or death, which
21 warrants a finding that imposition of such a limitation would
22 deprive the plaintiff of just compensation for the injuries
23 sustained.

24 2. *a.* Every retail alcohol licensee, except a class "B",
25 special class "B", or class "E" retail alcohol licensee, shall
26 furnish proof of financial responsibility under this section
27 by the existence of a liability insurance policy in an amount
28 determined by the department. If an insurer provides dramshop
29 hemp liability insurance at a new location to a licensee
30 or permittee who has a positive loss experience at other
31 locations for which such insurance is provided by the insurer,
32 and the insurer bases premium rates at the new location on
33 the negative loss history of the previous licensee at that
34 location, the insurer shall examine and consider adjusting the
35 premium for the new location not less than thirty months after

1 the insurance is issued, based on the loss experience of the
2 licensee at that location during that thirty-month period of
3 time.

4 *b.* A dramshop hemp liability insurance policy may be written
5 on an aggregate limit basis.

6 *c.* The purpose of dramshop hemp liability insurance is to
7 provide protection for members of the public who experience
8 damages as a result of licensees serving patrons any consumable
9 hemp product to a point that reaches or exceeds the standard
10 set forth in law for liability. Minimum coverage requirements
11 for such insurance are not for the purpose of making the
12 insurance affordable for all licensees regardless of claims
13 experience. A dramshop hemp liability insurance policy
14 obtained by a licensee shall meet the minimum insurance
15 coverage requirements as determined by the department and is a
16 mandatory condition for holding a license.

17

EXPLANATION

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

20 This bill relates to civil liability and associated
21 insurance requirements of alcoholic beverage licensees or
22 permittees who also sell or serve consumable hemp products.

23 Under current law, Code section 123.92 provides for civil
24 liability and insurance requirements for alcoholic beverage
25 licensees and permittees who sell and serve alcoholic beverages
26 to a visibly intoxicated person (dramshop Act). The bill
27 establishes similar dramshop provisions applicable to a
28 licensee or permittee who sells or serves any consumable hemp
29 product (CHP), if the licensee or permittee is also registered
30 to sell CHPs in Iowa (Code section 204.7) or by another
31 jurisdiction.

32 The total amount recoverable by each plaintiff in any civil
33 action for noneconomic damages for personal injury against a
34 licensee or permittee who sold and served any CHP giving rise
35 to such civil action is limited to \$500,000 for any injury

1 or death of a person, unless the jury determines that there
2 is a substantial or permanent loss or impairment of a bodily
3 function, substantial disfigurement, or death, which warrants
4 a finding that imposition of such a limitation would deprive
5 the plaintiff of just compensation for the injuries sustained.
6 This is in addition to any amount recoverable under Code
7 section 123.92 based on sale or service of alcoholic beverages
8 (\$250,000, with similar exceptions), and applies regardless
9 of whether the licensee or permittee also sold or served an
10 alcoholic beverage.

11 The bill makes conforming changes to Code section 123.3(15)
12 and Code section 123.10(14).