

House File 384 - Reprinted

HOUSE FILE 384
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 90)

(As Amended and Passed by the House February 16, 2021)

A BILL FOR

1 An Act relating to alcohol beverage control concerning certain
2 class "C" liquor control licenses and the delivery of
3 certain alcoholic beverages.

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

1 Section 1. Section 123.3, subsection 11, Code 2021, is
2 amended to read as follows:

3 11. *"Canned cocktail"* means a mixed drink or cocktail that
4 is premixed and packaged in a metal can and contains more than
5 six and twenty-five hundredths percent of alcohol by volume but
6 not more than fifteen percent of alcohol by volume. A mixed
7 drink or cocktail mixed and packaged in a metal can pursuant to
8 section 123.49, subsection 2, paragraph "d", subparagraph 3,
9 shall not be considered a canned cocktail.

10 Sec. 2. Section 123.30, subsection 3, paragraph c,
11 subparagraph (1), Code 2021, is amended to read as follows:

12 (1) A class "C" liquor control license may be issued to
13 a commercial establishment but must be issued in the name of
14 the individuals who actually own the entire business and shall
15 authorize the holder to purchase alcoholic liquors in original
16 unopened containers from class "E" liquor control licensees
17 only, wine from class "A" wine permittees or class "B" wine
18 permittees who also hold class "E" liquor control licenses
19 only as provided in [sections 123.173 and 123.177](#), and to sell
20 alcoholic beverages to patrons by the individual drink for
21 consumption on the premises only. However, alcoholic liquor,
22 wine, and beer in original unopened containers may also be sold
23 for consumption off the premises. In addition, mixed drinks
24 or cocktails may also be sold for consumption off the premises
25 subject to the requirements of [section 123.49, subsection 2,](#)
26 [paragraph "d"](#). The holder of a class "C" liquor control license
27 may also hold a special class "A" beer permit for the premises
28 licensed under a class "C" liquor control license for the
29 purpose of operating a brewpub pursuant to [this chapter](#).

30 Sec. 3. Section 123.46A, subsections 1 and 2, Code 2021, are
31 amended to read as follows:

32 1. Licensees and permittees authorized to sell alcoholic
33 liquor, wine, or beer in original unopened containers for
34 consumption off the licensed premises may deliver alcoholic
35 liquor, wine, or beer to a home, another licensed premises if

1 there is identical ownership of the premises by the licensee
2 or permittee, or other designated location in this state.
3 Deliveries shall be limited to alcoholic beverages authorized
4 by the licensee's or permittee's license or permit. Orders
5 delivered to another licensed premises shall contain only those
6 alcoholic beverages authorized for sale by the liquor control
7 license or retail wine or beer permit covering the premises
8 to which the alcoholic beverages will be delivered. Orders
9 delivered to another licensed premises shall be fulfilled using
10 the alcoholic beverages inventory owned by the licensee or
11 permittee who will receive the order for delivery. If the
12 recipient refuses or fails to pick up the delivery, or is
13 ineligible to receive the delivery, the alcoholic beverages
14 shall be returned to the licensee or permittee who fulfilled
15 the order.

16 2. All deliveries of alcoholic liquor, wine, ~~or~~ beer, or
17 mixed drinks or cocktails shall be subject to the following
18 requirements and restrictions:

19 a. Payment for the alcoholic liquor, wine, ~~or~~ beer, or
20 mixed drinks or cocktails shall be received by the licensee or
21 permittee at the time of order.

22 b. Orders for deliveries may be taken by the licensee
23 or permittee between the hours of 2:00 a.m. and 6:00 a.m.
24 on a day other than Sunday, and orders for deliveries may
25 be taken between the hours of 2:00 a.m. and 8:00 a.m. on a
26 Sunday provided the licensee or permittee has been granted the
27 privilege of selling alcoholic liquor, wine, ~~or~~ beer, or mixed
28 drinks or cocktails on Sunday, notwithstanding any provision of
29 section 123.49, subsection 2, paragraph "b", to the contrary.

30 c. Alcoholic liquor, wine, ~~or~~ beer, or mixed drinks or
31 cocktails delivered to a person shall be for personal use and
32 not for resale.

33 d. Deliveries shall only be made to persons in this state
34 who are twenty-one years of age or older.

35 e. Deliveries shall not be made to a person who is

1 intoxicated or is simulating intoxication.

2 *f.* Deliveries shall occur between 6:00 a.m. and 10:00 p.m.
3 Monday through Saturday, and between 8:00 a.m. and 10:00 p.m.
4 Sunday.

5 *g.* Delivery of alcoholic liquor, wine, ~~or beer~~, or mixed
6 drinks or cocktails shall be made by the licensee or permittee,
7 or the licensee's or permittee's employee, and not by a third
8 party.

9 *h.* Delivery personnel shall be twenty-one years of age or
10 older.

11 *i.* Deliveries shall be made in a vehicle owned, leased, or
12 under the control of the licensee or permittee.

13 *j.* Valid proof of the recipient's identity and age shall
14 be obtained at the time of delivery, and the signature of a
15 person twenty-one years of age or older shall be obtained as a
16 condition of delivery.

17 *k.* Licensees and permittees shall maintain records
18 of deliveries which include the quantity delivered, the
19 recipient's name and address, and the signature of the
20 recipient of the alcoholic liquor, wine, ~~or beer~~, or mixed
21 drinks or cocktails. The records shall be maintained on the
22 licensed premises for a period of three years.

23 ~~*l.* Orders delivered to another licensed premises shall~~
24 ~~contain only those alcoholic beverages authorized for sale~~
25 ~~by the liquor control license or retail wine or beer permit~~
26 ~~covering the premises to receive the delivery.~~

27 ~~*m.* Orders delivered to another licensed premises shall be~~
28 ~~fulfilled using the alcoholic beverages inventory owned by the~~
29 ~~licensee or permittee who received the order for delivery. If~~
30 ~~the recipient refuses or fails to pick up the delivery, or is~~
31 ~~ineligible to receive the delivery, the alcoholic beverages~~
32 ~~shall be returned to the licensee or permittee who fulfilled~~
33 ~~the order.~~

34 Sec. 4. Section 123.46A, Code 2021, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 1A. Licensees and permittees authorized to
2 sell wine, beer, or mixed drinks or cocktails for consumption
3 off the licensed premises in a container other than the
4 original container may deliver the wine, beer, or mixed drinks
5 or cocktails to a home or other designated location in this
6 state only if the container other than the original container
7 has been sold and securely sealed in compliance with this
8 chapter or the rules of the division. Deliveries shall be
9 limited to alcoholic beverages authorized by the licensee's or
10 permittee's license or permit.

11 Sec. 5. Section 123.49, subsection 2, paragraph d,
12 subparagraphs (2) and (3), Code 2021, are amended to read as
13 follows:

14 (2) Mixed drinks or cocktails mixed on the premises that are
15 not for immediate consumption may be consumed on the licensed
16 premises subject to the requirements of this subparagraph
17 pursuant to rules adopted by the division. The rules shall
18 provide that the mixed drinks or cocktails be stored, for
19 no longer than seventy-two hours, in a labeled container in
20 a quantity that does not exceed three gallons. The rules
21 shall also provide that added flavors and other nonbeverage
22 ingredients included in the mixed drinks or cocktails shall
23 not include hallucinogenic substances or added caffeine or
24 other added stimulants including but not limited to guarana,
25 ginseng, and taurine. ~~In addition, the~~ The rules shall also
26 require that the licensee keep records as to when the contents
27 in a particular container were mixed and the recipe used for
28 that mixture. In addition, mixed drinks or cocktails mixed
29 on the premises pursuant to this subparagraph may be sold
30 for consumption off the licensed premises as provided in and
31 subject to the requirements of subparagraph (3).

32 (3) Mixed drinks or cocktails mixed on premises covered by
33 a class "C" liquor control license or a class native distilled
34 spirits liquor control license for consumption off the licensed
35 premises may be sold only if all of the ~~mixed drink or cocktail~~

1 ~~is immediately sealed with a lid or other method of securing~~
2 ~~the product and is promptly taken from the licensed premises~~
3 ~~prior to consumption of the mixed drink or cocktail. A mixed~~
4 ~~drink or cocktail that is sold and sealed in compliance with~~
5 ~~the requirements of this subparagraph shall not be deemed an~~
6 ~~open container subject to the requirements of sections 321.284~~
7 ~~and 321.284A if the sealed container is unopened and the seal~~
8 ~~has not been tampered with, and the contents of the container~~
9 ~~have not been partially removed. following requirements are~~
10 met:

11 (a) The mixed drink or cocktail shall be enclosed in a
12 sealed container, which has a secure lid, cap, or other closure
13 designed to prevent consumption without removing, opening, or
14 breaking the lid, cap, or other closure.

15 (b) The lid, cap, or other closure must be tamper-evident.
16 For purposes of this subsection, "tamper-evident" means the
17 container is sealed with material such as wax dip, heat shrink
18 wrap, adhesive tape, a screw top, or another material or method
19 designed to reveal the removal, opening, or breaking of the
20 lid, cap, or other closure.

21 (c) The container shall not be made of disposable paper,
22 plastic, or polystyrene foam, and shall not be an expanded
23 polystyrene foam cup. Substantial or sturdy plastic containers
24 and vacuum or heat-sealed pouches are permitted.

25 (d) The container shall not include any sipping hole or
26 other opening for a straw unless the hole or other opening
27 includes a tamper-evident seal preventing consumption without
28 being removed or otherwise broken. A straw may be separately
29 provided to the consumer for use off the licensed premises.

30 (e) The container shall be filled only with mixed drinks or
31 cocktails composed in whole or in part with alcoholic liquor or
32 native distilled spirits from an original container purchased
33 from a class "E" liquor control licensee.

34 (f) The filling of the container shall at all times be
35 conducted in compliance with applicable state and federal food

1 safety statutes and regulations.

2 Sec. 6. Section 123.49, subsection 2, paragraph d, Code
3 2021, is amended by adding the following new subparagraph:

4 NEW SUBPARAGRAPH. (4) A container of mixed drinks or
5 cocktails that is sold and sealed in compliance with the
6 requirements of subparagraph (3) shall not be deemed an open
7 container subject to the requirements of sections 321.284 and
8 321.284A if the sealed container is unopened and the seal has
9 not been tampered with, and the contents of the container have
10 not been partially removed.