HOUSE FILE 384
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 90)

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

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

intoxicated or is simulating intoxication.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

safety statutes and regulations.

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

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