

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section one thousand eight hundred sixty (1860), Code,
2 1939, is amended by adding after the comma following the word
3 "witnesses" in line four (4) the words "pay witness fees and mileage."

1 SEC. 2. Section one thousand eight hundred sixty-two (1862) Code,
2 1939, is amended by striking from lines twelve (12) and thirteen (13)
3 the word "additional" and inserting in lieu thereof the following:
4 "legal, technical and", and by striking in line fourteen (14) the word
5 "office".

1 SEC. 3. Section one thousand eight hundred sixty-five (1865), Code,
2 1939, is amended by striking in line eight (8) the words "for the ex-
3 penses and compensation of said "board of examiners", and inserting
4 in lieu of the stricken words: "to defray expenditures".

Approved April 30, 1941.

CHAPTER 113

REAL ESTATE BROKERS

H. F. 133

AN ACT to amend section one thousand nine hundred five and fifty-six hundredths (1905.56), Code, 1939, relating to fines for violation of the provisions of Chapter ninety-one and two-tenths (91.2), Code, 1939, relating to real estate brokers.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Amend section nineteen hundred five and fifty-six
2 hundredths (1905.56), code, 1939, by striking therefrom all of the
3 second paragraph, which reads as follows: "All fines and penalties
4 shall inure to the commissioner, and shall be placed in the general
5 fund of the state."

Approved March 24, 1941.

CHAPTER 114

BEER AND MALT LIQUORS

H. F. 415

AN ACT to amend chapter ninety-three and two tenths (93.2), Code, 1939, relating to the tax and restrictions upon the sale of beer and malt liquors, providing for license fee by permit holders and the collection of said fee, providing for the regulation of classes of beer permits and the requirements to obtain said permits; to provide for the enforcement and administration of said act; to define certain unlawful acts relating to the manner of sale, and distribution of beer and malt liquors; to provide penalties for violation of the law by permit holders; to provide penalties for violation of the law by minors; and to provide penalties for the violation of the provisions of this act.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section one thousand nine hundred twenty-one and

2 ninety-six thousandths (1921.096), Code, 1939, is amended by inserting
3 in the first line of paragraph seven (7) before the word "shall" the
4 following: "or 'license'".

1 SEC. 2. Section one thousand nine hundred twenty-one and one
2 hundred four thousandths (1921.104), Code, 1939, is amended as
3 follows: by striking the words "one thousand" in lines six (6) and
4 seven (7) of subsection three (3) of said section, and inserting in
5 lieu thereof the words "five hundred".

6 Amend subsection three (3) of section one thousand nine hundred
7 twenty-one and one hundred four thousandths (1921.104) Code, 1939,
8 by adding to said subsection the following: "Said bond shall be further
9 conditioned to the effect that the permittee and his surety, as a part
10 of the permit granted hereunder, shall consent to forfeiture of the
11 principal sum of said bond in event of cancellation of the permit as
12 a result of charges filed and hearing had thereon as provided in this
13 chapter.

1 SEC. 3. Section one thousand nine hundred twenty-one and one
2 hundred five thousandths (1921.105), Code, 1939, is hereby amended
3 by repealing the same and substituting the following in lieu thereof:

4 No class "C" permit shall be issued to any person except the owner
5 or proprietor of a grocery store or pharmacy as those terms are herein-
6 after defined. Except as otherwise provided in this chapter a class
7 "C" permit shall be issued by the authority so empowered in this
8 chapter to any person who is the owner or proprietor of a grocery
9 store or pharmacy, who:

10 1. Submits a written application for a permit, which application
11 shall state under oath:

12 a. The name and place of residence of the applicant and the length
13 of time he has lived at such place of residence.

14 b. That he is a citizen of the state of Iowa.

15 c. The place of birth of the applicant and if the applicant is a
16 naturalized citizen, the time and place of such naturalization.

17 d. The location of the place or building where the applicant intends
18 to operate.

19 e. The name of the owner of the building and if such owner is not
20 the applicant that such applicant is the actual lessee of the premises.

21 2. Establishes :

22 a. That he is a person of good moral character.

23 3. Furnishes a bond in the form and conditioned as prescribed and
24 to be furnished by the state tax commission, with good and sufficient
25 sureties to be approved by the authorities to which such application
26 is submitted, conditioned upon the faithful observance of this chapter,
27 in the sum of five hundred dollars.

28 "Grocery store" means and includes any retail establishment, the
29 principal business of which consists of the sale of food or food products
30 for consumption off the premises.

31 "Pharmacy" shall mean a drug store in which drugs and medicines
32 are exposed for sale and sold at retail, or in which prescriptions of
33 licensed physicians and surgeons, dentists or veterinarians are com-
34 pounded and sold by a registered pharmacist.

1 SEC. 4. Section one thousand nine hundred twenty-one and one
2 hundred fifteen thousandths (1921.115), Code, 1939, is hereby amended
3 by striking therefrom the last sentence of the first paragraph of said
4 section, being the sentence as follows: "No person, except parent or
5 guardian, shall furnish to any minor under twenty-one years of age, by
6 gift, sale or otherwise, any beer."

7 Said section one thousand nine hundred twenty-one and one hun-
8 dred fifteen thousandths (1921.115) is further amended by inserting in
9 line eleven (11) between the words "to" and "any", the words "or
10 consumed by"; and also by inserting after the word "person" in line
11 eleven (11), the following: ", on the premises of any class "B" permit
12 holder,".

13 Said section one thousand nine hundred twenty-one and one hundred
14 fifteen thousandths (1921.115) is further amended by adding thereto as
15 a separate paragraph, the following:

16 "It shall be unlawful for any person to sell, give or make available
17 to any minor or to permit any minor to purchase or consume any beer
18 on the premises of a class "B" or class "C" permit holder, or for any
19 minor to buy or attempt to buy or to secure or attempt to secure beer
20 from any person, and it shall further be unlawful for any person to
21 offer beer, with or without consideration, to any minor, except within
22 a private home and with the knowledge and consent of the parent or
23 guardian of said minor. A violation of the provisions of this paragraph
24 by any holder of a class "B" or class "C" permit or any of his agents
25 or employees in connection with the operation of a beer business under
26 said class "B" or class "C" permit shall be a mandatory ground for
27 revocation of said permit, in addition to other mandatory grounds
28 provided in this chapter."

1 SEC. 5. Chapter ninety-three and two tenths (93.2), Code, 1939,
2 is amended by adding thereto as a separate section the following:

3 "(a) No dancing shall be permitted in connection with the operation
4 of a beer business under any class "B" license, except that cities and
5 towns, including cities or towns organized under special charter, may,
6 by ordinance, and county boards of supervisors may by resolution
7 authorize and license dancing in connection with the operation of a
8 beer business under a class "B" license provided the floor space used
9 for dancing purposes therein contain at least five hundred (500) square
10 feet, all of which shall be of the same general floor level as the place
11 where the beer is dispensed; said space to be used for dancing shall be
12 in the same room as, or in a room adjacent to and opening directly
13 from, the place where beer is dispensed and with a full view at all times
14 of the major portion thereof from the place where beer is dispensed.
15 Said floor space shall not be obstructed or crossed in any part or portion
16 by partitions or other obstructions of any kind, except necessary
17 structural posts, pillars or similar supports.

18 "(b) It is further provided that the holder of a class "B" license
19 where dancing shall be permitted in connection therewith, as herein
20 provided, shall, at his own expense, provide for the attendance thereat,
21 at all times during the hours when dancing is permitted, of a policeman
22 who shall be a member of the regularly constituted police force of the
23 city or town, or an officer of the sheriff's department in case said

24 license has been issued by the board of supervisors, or especially
25 deputized for that purpose; said officers shall wear the regulation
26 police officer's uniform of said city or town, or of the sheriff's office
27 as the case may be, and if no prescribed uniform shall have been
28 adopted, then said officers shall be required to wear such distinctive
29 uniform as the council or sheriff shall designate; the provisions of
30 subsections (a) and (b) of this section shall not apply to any club
31 holding a class "B" permit under this chapter or to hotels with fifty
32 or more guest rooms when the operator thereof holds the class "B"
33 license in connection with which dancing is permitted.

34 "(c) No booths shall be permitted or used in connection with the
35 operation of a beer business under any class "B" license issued in the
36 state of Iowa, unless the same are entirely open at one side with an
37 unobstructed view therein from the rest of the room. The total height
38 of any booth structure shall not exceed forty (40) inches, provided,
39 however, that any person who is the holder of a class "B" permit on
40 the date when this act shall become effective, and whose place of
41 business is, on said date, equipped with booths of a greater height
42 than forty (40) inches, but not to exceed fifty (50) inches, shall be
43 permitted to continue the use of the same for such period of time as
44 said business is operated by him. In no event, however, shall any
45 booth structure be of greater height than fifty (50) inches and no
46 booths installed in the place of business of any class "B" permit
47 holder on or after the date when this act shall become effective, shall
48 exceed forty (40) inches in height."

49 "(d) The place of said business shall be lighted so that all objects
50 are plainly visible at all times, and all parts of such place of business
51 shall be illuminated to a minimum of two foot candles as measured by
52 a foot candle meter at a plane of thirty inches above the floor line."

1 SEC. 6. Chapter ninety-three and two tenths (93.2), Code, 1939,
2 is amended by inserting therein the following section, to wit: "In
3 addition to all other provisions of this chapter for the revocation of
4 class "B" licenses, it is further provided that ten (10) or more citizens
5 of any precinct, or of any city or town where said city or town con-
6 tains more than one precinct, wherein the business under the Class "B"
7 license referred to in such complaint is conducted may join in filing,
8 and it shall be the duty of every peace officer to so file with the board
9 or council which granted the license in question, a complaint in writ-
10 ing, when such complainant or complainants shall have knowledge
11 of any violations of this chapter by any license holder, setting forth
12 the alleged acts of violation with reasonable accuracy. The said board
13 or council shall, upon receipt of any such complaint, forthwith fix a
14 date for hearing thereon and shall immediately thereafter cause a
15 written notice of the date, time and place of said hearing, together
16 with a copy of the complaint filed, to be served by any peace officer
17 upon the permit holder complained against, and upon the surety, or
18 the agent or representative of such surety, on his bond. Said date
19 of hearing shall not be sooner than five (5) nor later than fifteen (15)
20 days after the filing of said complaint. Said hearing may be adjourned
21 or continued at the discretion of the board or council for good cause
22 shown and the specific reasons therefor entered of record in the records

23 of the board or council, but except for extraordinary or unusual circum-
24 stances, specifically stated in writing and placed in the minutes of
25 such board or council, no more than two (2) continuances of not to
26 exceed five (5) days each shall be granted. At said hearing the person
27 or persons filing the complaint may be represented by counsel and the
28 permit holder may be represented by counsel. The board or council, as
29 the case may be, shall make full inquiry into the charges made in the
30 complaint, being authorized to administer oaths and take testimony
31 thereon, and if it appears that the permit holder has violated any
32 provision of this chapter for which mandatory revocation is provided,
33 the board or council shall immediately revoke said license, and the
34 bond of the permit holder provided for in section one thousand nine
35 hundred twenty-one and one hundred four thousandths (1921.104) of
36 this chapter, shall be forfeited and its principal or penal sum shall
37 become immediately due and payable to such city, town, or county, as
38 the case may be. A certification of such order of forfeiture shall forth-
39 with be filed with the clerk of the district court of the county and when
40 so filed the clerk of the court shall forthwith enter a judgment in
41 favor of the city whose council granted said permit or in favor of
42 the county whose board of supervisors granted said permit, as the case
43 may be, and against the permittee and the surety on his bond in the
44 full amount of the principal sum of said bond. Either the complainant
45 or the permittee may appeal to the district court of the county in
46 which such permit was issued, or a judge thereof in vacation, from the
47 decision of the board or council by serving written notice of such
48 appeal on the opposite party in the same manner as service of original
49 notices of suits and filing said notice and return of service thereof
50 with the board or council within ten (10) days after the entry of such
51 decision. In the event the decision of the board or council provides for
52 a revocation of the permit, same shall stand revoked immediately
53 and shall not be reinstated unless the district court or judge shall
54 reverse the decision of the board or council. When notice of appeal
55 has been served and filed, the board or council, as the case may be,
56 shall immediately certify all the original papers to the clerk of the
57 district court together with a certified copy of the order appealed
58 from. The appeal shall be heard and determined by the district court
59 without jury, or by a judge thereof in vacation within ten (10) days
60 thereafter and the hearing thereof shall be given precedence over
61 other matters pending in said court. The board or council and the
62 permit holder may be represented by counsel at such hearing. The
63 said district court, or judge thereof in vacation, shall have full jurisdic-
64 tion to hear and determine the matter de novo, and the decision of
65 the court or judge shall be final and not subject to appeal to the
66 supreme court except on the question of violation of the constitutional
67 rights of either party. Nothing herein shall preclude prosecution of
68 the license holder for any violations of law."

1 SEC. 7. Section one thousand nine hundred twenty-one and one
2 hundred twenty-nine thousandths (1921.129), Code, 1939, is hereby
3 amended by striking therefrom all that part beginning with the words
4 "as follows:" in line twenty-seven (27) to and including the words
5 "said chapter," in line forty (40) and inserting in lieu thereof the
6 following:

7 "Provided, however, where an ordinance is adopted providing for
8 the limitation of class "B" permits the minimum limitation shall not
9 be less than one class "B" permit to be issued upon application meet-
10 ing the requirements of this chapter for each five hundred (500)
11 population or fractional part thereof up to twenty-five hundred (2,500)
12 population and one additional permit for each seven hundred fifty
13 (750) population or fractional part thereof over and above twenty-
14 five hundred (2,500) population. However, in towns having a popula-
15 tion of one thousand (1,000) or less, at least two (2) permits shall be
16 allowed if proper application is made therefor in accordance with the
17 requirements of the provisions of this chapter.

1 SECTION 8. Section one thousand nine hundred twenty-one and one
2 hundred thousandths (1921.100) of the Code of 1939 is amended by
3 adding thereto the following:

4 Any Class "B" permittee or his executor, administrator or any
5 person duly appointed by the Court to take charge of and administer
6 the property or assets of such permittee for the benefit of his creditors,
7 may voluntarily surrender any permit, issued under this Chapter,
8 to the issuing authority and when so surrendered the issuing authority
9 shall refund to the person so surrendering the permit a proportionate
10 amount of the permit fee paid for such permit as follows: if sur-
11 rendered during the first three (3) months of the period for which
12 said permit was issued the refund shall be three-fourths ($\frac{3}{4}$) of the
13 amount of the permit fee; if surrendered more than three (3) months
14 but not more than six (6) months after issuance the refund shall be
15 one-half ($\frac{1}{2}$) of the amount of the permit fee; if surrendered more
16 than six (6) months but not more than nine (9) months after issuance
17 the refund shall be one-fourth ($\frac{1}{4}$) of the amount of the permit fee.
18 No refund shall be made, however, for any permit surrendered more
19 than nine (9) months after issuance. No refund shall be made to any
20 permit holder, upon the surrender of his permit, if there is at the
21 time of said surrender a complaint filed with the board or council
22 charging him with a violation of the provisions of this chapter. If
23 upon hearing on any such complaint, so filed, his permit be not revoked,
24 then said permit holder shall be eligible, upon surrender of his license,
25 to receive a refund as herein provided. But in event his license is
26 revoked upon such hearing then he shall not be eligible for the refund
27 of any portion of his permit fee."

1 SEC. 9. Section one thousand nine hundred twenty-one and one
2 hundred twenty-nine thousandths (1921.129) is hereby amended by
3 striking from lines fifty-two (52) and fifty-three (53) of said section
4 the following: "and for the prohibiting and regulation of dancing
5 in places where beer is sold;".

Approved April 23, 1941.