

CHAPTER 1024**IOWA BEER AND LIQUOR CONTROL COUNCIL MEMBERSHIP***S.F. 213*

AN ACT relating to the members of the Iowa beer and liquor control council.

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

Section 1. Section 123.6, Code 1981, is amended to read as follows:

123.6 APPOINTMENT – TERM – QUALIFICATIONS – COMPENSATION. Appointments shall be for five-year staggered terms beginning and ending as provided by section 69.19 and shall be made by the governor, subject to confirmation by the senate. Members of the council shall be chosen on the basis of managerial ability and experience as business executives. One member of the council may be the holder of or have an interest in a permit or license to manufacture alcoholic liquor or beer or sell alcoholic liquor or beer at wholesale or retail. Members may be reappointed for one additional term. Each member appointed shall receive full compensation for the member's services of ~~two thousand five hundred dollars per annum~~ forty dollars per diem in addition to reasonable and necessary expenses while attending meetings.

Sec. 2. Section 123.45, unnumbered paragraph 1, Code 1981, is amended to read as follows:

No ~~Except as provided in section 123.6,~~ a council member or department employee shall not, directly or indirectly, individually, or as a member of a partnership or shareholder in a corporation, have any interest in dealing in or in the manufacture of alcoholic liquor or beer ~~nor,~~ and shall not receive any kind of profit nor have any interest in the purchase or sale of alcoholic liquor or beer by persons so authorized under this chapter ~~except that.~~ However, this provision shall not ~~prevent~~ prohibit any such member or employee from lawfully purchasing and keeping alcoholic liquor or beer in his or her possession for personal use.

Approved March 4, 1982

CHAPTER 1025**NOTICE TO CURE IN CONSUMER CREDIT TRANSACTIONS***H.F. 823*

AN ACT relating to the requirements for giving a notice to cure in a consumer credit transaction.

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

Section 1. Section 537.5110, subsection 2, Code 1981, is amended to read as follows:

2. A creditor who believes in good faith that a consumer is in default may give the consumer

written notice of the alleged default, and, if the consumer has a right to cure the default, shall give the consumer the notice of right to cure provided in section 537.5111 before exercising any right he may have to enforce commencing any legal action in any court on an obligation of the consumer and before repossessing collateral. However, this subsection and subsection 4 do not require a creditor to give notice of right to cure prior to the filing of a petition by a creditor seeking to enforce the consumer's obligation in which attachment under chapter 639 is sought upon any of the grounds specified in section 639.3, subsections 3 through 12.

When property is attached without the giving of notice of right to cure as permitted by this subsection, the creditor immediately shall give notice of the attachment to the consumer in the same manner as prescribed by the rules of civil procedure for service of an original notice. The notice shall advise the consumer that the attachment may be discharged by the filing of a bond as provided in sections 639.42 and 639.45, or by the filing of a motion with the court to discharge the attachment pursuant to section 639.63. The notice required by this paragraph is in lieu of the notice requirements of sections 639.31 and 639.33.

When a motion is filed to discharge an attachment made without the giving of a prior notice of right to cure, the court shall hear the motion within three days of the filing of the motion to discharge. If the court finds that the attachment should not have been issued or should not have been levied on all or any part of the property held, the attachment shall be discharged in whole or in part and property wrongfully attached shall be returned to the consumer.

If the court finds that there was no probable cause to believe the grounds upon which the attachment was issued, the consumer may be awarded damages plus reasonable attorney's fees to be determined by the court.

Sec. 2. Section 537.5110, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If a creditor in a consumer credit transaction commences an action for money judgment prior to giving the customer notice of right to cure as required by this section and fails to follow the procedures set out in this section, the court shall dismiss the action without prejudice. If the action was commenced as a small claim under chapter 631, the creditor shall not be found to be in violation of this section for purposes of section 537.5201 and the penalties provided in that section shall not apply if the creditor proves by a preponderance of the evidence that the creditor did not at the time of the violation have either knowledge or reason to know of the requirements of this section, and for this purpose the court shall consider all relevant evidence, including but not limited to the education or experience of the creditor with respect to the collection of debts arising from consumer credit transactions and any representation of the creditor by legal counsel and any legal advice rendered to the creditor with respect to the collection of debts arising from consumer credit transactions.

Approved March 8, 1982