

CHAPTER 1241

ALCOHOLIC BEVERAGE SALE REGULATION

H.F. 393

AN ACT relating to the regulation of the sale of alcoholic beverages by amending the definition of licensed premises, by requiring the division of alcoholic beverages to place its system of purchase of alcoholic liquor on a bailment system, by providing for service of notice of nonpayment and penalty by the division to a class "E" license by certified mail, by limiting the areas of licensed premises which may be searched without a warrant, by providing that separate licensed premises, one under a class "E" liquor control license and the other under another retail liquor control license or a retail wine or beer permit, may share a common entrance, by providing an exemption to the licensing requirements for a class "E" liquor control license in counties under nine thousand five hundred in population, by providing for the assessment of a civil penalty in lieu of a license suspension for an offense by a licensee, by allowing a person holding a special permit for the purchase of sacramental wine to purchase from a class "A" wine permittee, and relating to liquor control licenses and wine and beer permits by providing for adjustment of fees for certain businesses and permittees and by requiring all class "A" wine permit premises and class "A" beer permit premises to be located within the state.

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

Section 1. Section 123.3, Code 1987, is amended by adding the following new subsections:
NEW SUBSECTION. 36. "City" means a municipal corporation but not including a county, township, school district, or any special purpose district or authority.

NEW SUBSECTION. 37. "Unincorporated town" means a compactly populated area recognized as a distinct place with a distinct place-name which is not itself incorporated or within the corporate limits of a city.

Sec. 2. Section 123.14, subsection 2, Code 1987, is amended to read as follows:

2. The other law enforcement divisions of the department of public safety, the county attorney, the county sheriff and the sheriff's deputies, and the police department of every city, ~~including the day and night marshal of any city and the department of inspections and appeals,~~ shall be supplementary aids to the division of beer and liquor law enforcement. Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section shall be sufficient cause for the peace officer's removal as provided by law. Nothing in this section shall be construed to affect the duties and responsibilities of any county attorney or peace officer with respect to law enforcement.

Sec. 3. Section 123.20, subsection 1, Code Supplement 1987, is amended to read as follows:

1. To ~~purchase~~ receive alcoholic liquors and wine on a bailment system for resale by the division in the manner set forth in this chapter.

Sec. 4. Section 123.22, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The division has the exclusive right of importation into the state of all forms of alcoholic liquor, except as otherwise provided in this chapter, and a person shall not import alcoholic liquor, except that an individual of legal age may import and have in the individual's possession an amount of alcoholic liquor not exceeding one quart or, in the case of alcoholic liquor personally obtained outside the United States, one gallon for personal consumption only in a private home or other private accommodation. ~~No~~ A distillery shall not sell alcoholic liquor within the state to any person but only to the division, except as otherwise provided in this chapter. This section vests in the division exclusive control within the state as purchaser of all alcoholic liquor sold by distilleries within the state or imported, except beer and wine, and

except as otherwise provided in this chapter. The division shall receive alcoholic liquor on a bailment system for resale by the division in the manner set forth in this chapter. The division shall act as the sole wholesaler of alcoholic liquor to class "E" liquor control licensees.

Sec. 5. Section 123.24, subsection 2, paragraph a, Code Supplement 1987, is amended to read as follows:

a. The division may accept from a class "E" liquor control licensee a cashier's check which shows the licensee is the remitter or a check issued by the licensee in payment of alcoholic liquor. If a check is subsequently dishonored, the division shall cause a notice of nonpayment and penalty to be served upon the class "E" liquor control licensee or upon any person in charge of the licensed premises. The notice shall state that if payment or satisfaction for the dishonored check is not made within ten days of the service of notice, the licensee's liquor control license shall be suspended under section 123.39. The notice of nonpayment and penalty shall be in a form prescribed by the administrator, and shall be served by a peace officer sent by certified mail.

Sec. 6. Section 123.30, subsection 1, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

As a further condition for issuance of a liquor control license or wine or beer permit, the applicant must give consent to members of the fire, police and health departments and the building inspector of cities; the county sheriff, deputy sheriff, and state agents members of the department of public safety, representatives of the department of inspections and appeals, and certified police officers, and any official county health officer to enter upon areas of the premises where alcoholic beverages are stored, served, or sold, without a warrant during business hours of the licensee or permittee to inspect for violations of the provisions of this chapter or ordinances and regulations that cities and boards of supervisors may adopt. However, a subpoena issued under section 421.17 or a warrant is required for inspection of private records, a private business office, or attached living quarters. Persons who are not certified peace officers shall limit the scope of their inspections of licensed premises to the regulatory authority under which the inspection is conducted. All persons who enter upon a licensed premise to conduct an inspection shall present appropriate identification to the owner of the establishment or the person who appears to be in charge of the establishment prior to commencing an inspection; however, this provision does not apply to undercover criminal investigations conducted by peace officers.

Sec. 7. Section 123.30, subsection 3, paragraph e, Code Supplement 1987, is amended to read as follows:

e. CLASS "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

The division may issue a class "E" liquor control license for premises covered by a liquor control license or wine or beer permit for on-premise consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other application for a class "E" license has been made within the previous twelve consecutive months.

Sec. 8. Section 123.33, Code 1987, is amended to read as follows:

123.33 RECORDS.

Every holder of a liquor control license shall keep a daily record of the gross receipts of the holder's business. The records required and the premises of the licensee shall be open to agents of the division of beer and liquor law enforcement of the department of public safety inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee.

Sec. 9. Section 123.36, subsection 3, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Hotels and motels located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if a hotel or motel is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 10. Section 123.36, subsection 4, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the license fee which is the larger shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 11. Section 123.36, subsection 7, paragraph d, Code Supplement 1987, is amended to read as follows:

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the license fee which is the larger shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 12. Section 123.39, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the cause for suspension is a first offense violation of section 123.49, subsection 2, paragraph "h", and the violation occurred on or after January 1, 1988, the administrator or local authority shall impose a civil penalty in the amount of three hundred dollars in lieu of suspension of the license or permit. Local authorities shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the local authority. The division shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the administrator of the division. If the matter is appealed to the division's hearing board, the hearing board shall not reduce the amount of the civil penalty imposed under this paragraph if a violation of section 123.49, subsection 2, paragraph "h" is found.

Sec. 13. Section 123.45, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages, wine, or beer, or any jobber ~~representative, broker, employee,~~ or agent of such person, shall not directly or indirectly supply, furnish, give, or pay for any furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of business of a licensee or permittee authorized under this chapter

to sell at retail; nor shall the person directly or indirectly extend any credit for alcoholic beverages or beer or pay for any such license or permit, nor directly or indirectly be interested in the ownership, conduct, or operation of the business of another licensee or permittee authorized under this chapter to sell at retail, nor hold a retail liquor control license or retail wine or beer permit, except that a person engaged in the business of manufacturing beer may sell beer at retail for consumption on or off the premises of the manufacturing facility and, notwithstanding any other provision of this chapter or the fact that such a person may be the holder of a class "A" beer permit, may be granted not more than one class "B" permit as defined in section 123.124 for such purpose. Any licensee or permittee who permits or assents to or is a party in any way to any such violation or infringement of this section is guilty of a violation of this section.

Sec. 14. Section 123.50, subsection 3, paragraph a, Code 1987, is amended to read as follows:

a. Upon a first conviction, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of fourteen days. However, if the conviction is for a violation of section 123.49, subsection 2, paragraph "h", which occurred on or after January 1, 1988, the violator's liquor control license or wine or beer permit shall not be suspended, but the violator shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under section 123.39 or this subsection will result in automatic suspension of the license or permit for a period of fourteen days.

Sec. 15. Section 123.124, Code 1987, is amended to read as follows:

123.124 PERMITS — CLASSES.

Permits for the manufacture and sale, or sale of beer shall be divided into three classes, and shall be known as either class "A", "B", or "C" permits. A class "A" permit shall allow the holder to manufacture and sell beer at wholesale. The holder of a class "A" permit may manufacture beer of more than five percent of alcohol by weight for shipment outside this state only. However, a class "A" permit does not grant authority to manufacture wine as defined in section 123.3, subsection 7. A class "B" permit shall allow the holder to sell beer at retail for consumption on or off the premises. A class "C" permit shall allow the holder to sell beer at retail for consumption off the premises.

Sec. 16. Section 123.127, subsection 4, Code 1987, is amended to read as follows:

4. Gives consent to members of the fire, police and health departments and the building inspector of cities; the county sheriff, deputy sheriff, and state agents, and any official county health officer a person, pursuant to section 123.30, subsection 1, to enter upon the premises without a warrant during the business hours of the permittee to inspect for violations of the provisions of this chapter or ordinances and regulations that local authorities may adopt.

Sec. 17. Section 123.128, subsection 4, Code 1987, is amended to read as follows:

4. Consents to inspection as required in section ~~123.127~~ 123.30, subsection 4 1.

Sec. 18. Section 123.129, subsection 4, Code 1987, is amended to read as follows:

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Sec. 19. Section 123.130, Code 1987, is amended to read as follows:

123.130 AUTHORITY UNDER CLASS "A" PERMIT.

Any person holding a class "A" permit issued by the division shall be authorized to manufacture and sell, or sell at wholesale, beer for consumption off the premises, such sales within the state to be made only to persons holding subsisting class "A", "B" or "C" permits, or liquor control licenses issued in accordance with the provisions of this chapter. The holder of

a class "A" permit may manufacture beer of more than five percent alcohol by weight for shipment outside this state only. However, a class "A" permit does not grant authority to manufacture wine as defined in section 123.3, subsection 7.

All class "A" premises shall be located within the state. All beer received by the holder of a class "A" permit from the holder of a certificate of compliance before being resold must first come to rest on the premises licensed by the class "A" permit holder, must be inventoried, and is subject to the barrel tax when resold as provided in section 123.136. A class "A" permittee shall not store beer overnight except on premises licensed under a class "A" permit.

Sec. 20. Section 123.134, subsection 2, paragraph d, Code Supplement 1987, is amended to read as follows:

d. For premises located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be operated under the permit, and in case there is doubt as to which of two or more differing corporate limits are the nearest, the permit fee which is the largest shall prevail. However, if the premises are located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

Sec. 21. Section 123.138, Code 1987, is amended to read as follows:

123.138 BOOKS OF ACCOUNT REQUIRED.

Each class "A" permittee shall keep proper books of account and records showing the amount of beer sold by the permittee, which books of account shall be at all times open to inspection by the administrator and to other persons pursuant to section 123.30, subsection 1. Each class "B" and class "C" permittee shall keep proper books of account and records showing each purchase of beer made by the permittee, and the date and the amount of each purchase and the name of the person from whom each purchase was made, which books of account and records shall be open to inspection by the administrator and agents of the division of beer and liquor law enforcement of the department of public safety pursuant to section 123.30, subsection 1, during normal business hours of the permittee.

Sec. 22. Section 123.173, unnumbered paragraph 2, Code 1987, is amended to read as follows:

A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine as defined in section 123.3, subsection 7. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight for shipment outside this state or for sale to the division. All class "A" premises shall be located within the state. A class "B" wine permit allows the holder to sell wine at retail for consumption off the premises.

Sec. 23. Section 123.175, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Consents to inspection as required in section 123.30, subsection 1.

Sec. 24. Section 123.176, Code 1987, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Consents to inspection as required in section 123.30, subsection 1.

Sec. 25. Section 123.177, subsection 1, Code 1987, is amended to read as follows:

1. A person holding a class "A" wine permit may manufacture and sell, or sell at wholesale, wine for consumption off the premises. Sales within the state may be made only to ~~the division or to~~ persons holding a class "A" or "B" wine permit, and to persons holding a class "A", "B", "C" or "D" liquor control license, and to persons holding a special permit issued under section 123.29, subsection 3. A class "A" wine permittee having more than one place of business shall obtain a separate permit for each place of business where wine is to be stored, warehoused, or sold.

Sec. 26. Section 123.185, Code 1987, is amended to read as follows:

123.185 RECORDS REQUIRED.

Each class "A" wine permittee shall keep books of account and records showing each sale of wine, which shall be at all times open to inspection by the administrator and agents of the division pursuant to section 123.30, subsection 1. Each class "B" wine permittee shall keep proper books of account and records showing each purchase of wine and the date and the amount of each purchase and the name of the person from whom each purchase was made, which shall be open to inspection by the administrator and agents of the division pursuant to section 123.30, subsection 1, during normal business hours of the permittee.

Approved May 13, 1988

CHAPTER 1242

PUBLIC RETIREMENT ADMINISTRATION AND BENEFITS

H.F. 2405

AN ACT relating to the administration and benefits for certain public retirement systems, making appropriations, providing an effective date, and providing retroactive applicability.

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

Section 1. Section 12.8, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The treasurer of state, following with the approval by of the investment board of the Iowa public employees' retirement system, may implement and engage in conduct a program of lending securities in the Iowa public employees' retirement system portfolio, except the lending of common stocks shall not be allowed. When securities are loaned as provided by this paragraph, the treasurer, in order to secure the loan and as a condition thereof, shall obtain from the borrower federal securities of at least equal to one hundred three percent of market value, and the relative value of the collateral to the loan shall be maintained shall act in the manner provided for investment of moneys in the Iowa public employees' retirement fund under section 97B.7. The treasurer of state shall include in the reports required by sections 12.17 and 17.3, a review of the program including the fiscal impact of the program report at least annually to the investment board of the Iowa public employees' retirement system on the program and shall provide additional information on the program upon the request of the investment board or the employees of the Iowa public employees' retirement system division of the department of personnel.

Sec. 2. Section 97A.1, subsection 2, Code 1987, is amended to read as follows:

2. "Peace officer" or "peace officers" shall mean all members of the divisions of highway safety and uniformed force and criminal investigation and bureau of identification in the department of public safety, except clerical workers, who have passed a satisfactory physical and mental examination and have been duly appointed as members of the state department of public safety in accordance with the provisions of section 80.15, and the division of drug law enforcement, and arson investigators in the department of public safety hired prior to July 1, 1988, except clerical workers, and the division of beer and liquor law enforcement of the department of public safety, except clerical workers.

Sec. 3. Section 97A.6, subsection 8, paragraph b, unnumbered paragraph 1, Code 1987, is amended to read as follows: