

CHAPTER 35

REGULATION OF ALCOHOLIC BEVERAGES

H.F. 488

AN ACT concerning the alcoholic beverages division of the department of commerce and alcoholic beverage control, and making penalties applicable.

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

DIVISION I APPLICATIONS, FORMS, AND RECORDS

Section 1. Section 123.3, subsection 6, Code 2013, is amended to read as follows:

6. “*Application*” means a ~~formal~~ written request for the issuance of a permit or license that is supported by a verified statement of facts and submitted electronically, or in a manner prescribed by the administrator.

Sec. 2. Section 123.19, subsections 1 and 2, Code 2013, are amended to read as follows:

1. Any manufacturer, distiller, or importer of alcoholic beverages shipping, selling, or having alcoholic beverages brought into this state for resale by the state shall, as a condition precedent to the privilege of so trafficking in alcoholic liquors in this state, annually make application for and hold a distiller’s certificate of compliance which shall be issued by the administrator for that purpose. No brand of alcoholic liquor shall be sold by the division in this state unless the manufacturer, distiller, importer, and all other persons participating in the distribution of that brand in this state have obtained a certificate. The certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise suspended or revoked for cause. Each application for a certificate of compliance or renewal shall be ~~made submitted electronically, or in a manner and upon forms~~ submitted electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of fifty dollars payable to the division. However, this subsection need not apply to a manufacturer, distiller, or importer who ships or sells in this state no more than eleven gallons or its case equivalent during any fiscal year as a result of “special orders” which might be placed, as defined and allowed by divisional rules adopted under this chapter.

2. At the time of applying for a certificate of compliance, each applicant shall ~~file with submit to the division electronically, or in a manner prescribed by the administrator,~~ the name and address of its authorized agent for service of process which shall remain effective until changed for another, and a list of names and addresses of all representatives, employees, or attorneys whom the applicant has appointed in the state of Iowa to represent it for any purpose. The listing shall be amended from time to time by the certificate holder as necessary to keep the listing current with the division.

Sec. 3. Section 123.31, unnumbered paragraph 1, Code 2013, is amended to read as follows:

Verified applications for the original issuance or the renewal of liquor control licenses shall be ~~filed at the time and in the number of copies as the administrator shall prescribe, on forms submitted electronically, or in a manner~~ submitted electronically, or in a manner prescribed by the administrator, and shall set forth under oath the following information:

Sec. 4. Section 123.32, subsection 1, Code 2013, is amended to read as follows:

1. *Filing of application.* An application for a class “A”, class “B”, class “C”, or class “E” liquor control license, for a class “A” micro-distilled spirits permit, for a retail beer permit as provided in sections 123.128 and 123.129, or for a class “B”, class “B” native, or class “C” native retail wine permit as provided in section 123.178, 123.178A, or 123.178B, accompanied by the necessary fee and bond, if required, shall be filed with the appropriate city council if the premises for which the license or permit is sought are located within the corporate limits of a city, or with the board of supervisors if the premises for which the license or permit is sought are located outside the corporate limits of a city. An application for a class “D” liquor

control license and for a class “A” beer or class “A” wine permit, accompanied by the necessary fee and bond, if required, shall be ~~filed with~~ submitted to the division electronically, or in a manner prescribed by the administrator, which shall proceed in the same manner as in the case of an application approved by local authorities.

Sec. 5. Section 123.33, Code 2013, is amended to read as follows:

123.33 Records.

Every holder of a liquor control license shall keep a daily record, in printed or electronic format, of the gross receipts of the holder’s business. The records required and the premises of the licensee shall be accessible and open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee.

Sec. 6. Section 123.41, subsection 1, Code 2013, is amended to read as follows:

1. ~~Upon Each~~ application ~~in the prescribed form~~ to obtain or renew a manufacturer’s license shall be submitted to the division electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of three hundred fifty dollars, ~~the payable to the division~~. The administrator may in accordance with this chapter grant and issue a manufacturer’s license, valid for a one-year period after date of issuance, to a manufacturer which shall allow the manufacture, storage, and wholesale disposition and sale of alcoholic liquors to the division and to customers outside of the state.

Sec. 7. Section 123.42, subsection 1, Code 2013, is amended to read as follows:

1. Prior to representing or promoting a distiller’s alcoholic liquor products in the state, the broker shall ~~make submit an~~ application to the ~~administrator on forms provided~~ division electronically, or in a manner prescribed by the division administrator, for a broker’s permit. The administrator may in accordance with this chapter issue a broker’s permit which shall be valid for one year from the date of issuance unless it is sooner suspended or revoked for a violation of this chapter. A broker’s permit is valid throughout the state, and a broker who represents more than one distiller is required to obtain only one broker’s permit.

Sec. 8. Section 123.127, subsection 1, paragraph a, unnumbered paragraph 1, Code 2013, is amended to read as follows:

~~Submits a written an~~ application ~~for such permit~~ electronically, or in a manner prescribed by the administrator, which ~~application~~ shall state under oath:

Sec. 9. Section 123.127, subsection 1, paragraph c, Code 2013, is amended to read as follows:

c. ~~Furnishes a bond in the form a manner~~ prescribed and to be furnished by the division administrator, with good and sufficient sureties to be approved by the administrator conditioned upon the faithful observance of this chapter, in the ~~penal~~ sum of five thousand dollars, payable to the state.

Sec. 10. Section 123.128, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

~~Submits a written an~~ application ~~for such permit~~ electronically, or in a manner prescribed by the administrator, which ~~application~~ shall state under oath:

Sec. 11. Section 123.129, subsection 2, paragraph a, Code 2013, is amended to read as follows:

a. ~~Submits a written an~~ application ~~for such permit~~ electronically, or in a manner prescribed by the administrator, which ~~application~~ shall state under oath all the information required of a class “A” applicant by section 123.127, subsection 1, paragraph “a”.

Sec. 12. Section 123.135, subsections 1 and 3, Code 2013, are amended to read as follows:

1. A manufacturer, brewer, bottler, importer, or vendor of beer or any agent thereof desiring to ship or sell beer, or have beer brought into this state for resale by a class “A” permittee shall first make application for and be issued a brewer’s certificate of compliance by the administrator for that purpose. The certificate of compliance expires at the end of

one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise revoked for cause. Each application for a certificate of compliance or renewal of a certificate shall be submitted electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of five hundred dollars payable to the division. Each holder of a certificate of compliance shall furnish the information in ~~the form~~ a manner the administrator requires.

3. All class "A" permit holders shall sell only those brands of beer which are manufactured, brewed, bottled, shipped, or imported by a person holding a current certificate of compliance. Any employee or agent working for or representing the holder of a certificate of compliance within this state shall ~~register~~ submit electronically, or in a manner prescribed by the administrator, the employee's or agent's name and address with the division, ~~which names and addresses shall be filed with the division's copy of the certificate of compliance issued.~~

Sec. 13. Section 123.137, unnumbered paragraph 1, Code 2013, is amended to read as follows:

A person holding a class "A" or special class "A" permit shall on or before the tenth day of each calendar month commencing on the tenth day of the calendar month following the month in which the person is issued a permit, make a report under oath to the division ~~upon forms to be furnished by the division for that purpose~~ electronically, or in a manner prescribed by the administrator, showing the exact number of barrels of beer, or fractional parts of barrels, sold by the permit holder during the preceding calendar month. The report shall also state information the administrator requires, and permit holders shall at the time of filing a report pay to the division the amount of tax due at the rate fixed in section 123.136.

Sec. 14. Section 123.173, subsection 4, Code 2013, is amended to read as follows:

4. When a class "B" or class "B" native wine permittee who also holds a class "E" liquor control license sells wine to a class "A", class "B", or class "C" liquor control licensee, the liquor control licensee shall sign a report attesting to the purchase. The class "B" or class "B" native wine permittee who also holds a class "E" liquor control license shall submit a report to the division ~~electronically, on forms supplied by the division or in a manner prescribed by the administrator,~~ not later than the tenth of each month ~~a report~~ stating each sale of wine to class "A", class "B", and class "C" liquor control licensees during the preceding month, the date of each sale, and the brands and numbers of bottles with each sale. A class "B" permittee who holds a class "E" liquor control license may sell to class "A", class "B", or class "C" liquor control licensees only if the licensed premises of the liquor control licensee is located within the geographic territory of the class "A" wine permittee from which the wine was originally purchased by the class "B" wine permittee.

Sec. 15. Section 123.175, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

~~Submits a written~~ an application electronically, or in a manner prescribed by the administrator, for the permit ~~and states on the application which shall state~~ under oath:

Sec. 16. Section 123.175, subsection 3, Code 2013, is amended to read as follows:

3. Submits, in the case of a class "A" wine permit, a bond in the amount of five thousand dollars ~~in the form a manner prescribed and furnished by the division administrator~~ with good and sufficient sureties to be approved by the division conditioned upon compliance with this chapter.

Sec. 17. Section 123.180, subsection 1, Code 2013, is amended to read as follows:

1. A manufacturer, vintner, bottler, importer, or vendor of wine or an agent thereof desiring to ship, sell, or have wine brought into this state for resale by the division or for sale at wholesale by a class "A" permittee shall first make application for and shall be issued a vintner's certificate of compliance by the administrator for that purpose. The vintner's certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise revoked for cause. Each application for a vintner's certificate of compliance or renewal of a certificate shall be submitted electronically, or in a manner prescribed by the administrator,

and shall be accompanied by a fee of one hundred dollars payable to the division. Each holder of a vintner's certificate of compliance shall furnish the information required by the administrator in the form the administrator requires. A vintner or wine bottler whose plant is located in Iowa and who otherwise holds a class "A" wine permit to sell wine at wholesale is exempt from the fee, but not the other terms and conditions. The holder of a vintner's certificate of compliance may also hold a class "A" wine permit.

Sec. 18. Section 123.184, Code 2013, is amended to read as follows:

123.184 Report of gallonage sales — penalty.

Each class "A" wine permit holder on or before the tenth day of each calendar month commencing on the tenth day of the calendar month following the month in which the person is issued a permit, shall make a report under oath to the division ~~upon forms to be furnished by the division~~ electronically, or in a manner prescribed by the administrator, showing the exact number of gallons of wine and fractional parts of gallons, sold by that permit holder during the preceding calendar month. The report also shall state whatever reasonable additional information the administrator requires. The permit holder at the time of filing this report shall pay to the division the amount of tax due at the rate fixed in section 123.183. A penalty of ten percent of the amount of the tax shall be assessed and collected if the report is not filed and the tax paid within the time required by this section.

Sec. 19. Section 123.187, subsection 2, paragraph a, Code 2013, is amended to read as follows:

a. The administrator shall issue a wine direct shipper license to a wine manufacturer who submits ~~a written~~ an application for the license ~~on a form to be established electronically, or in a manner prescribed by the administrator by rule,~~ accompanied by a true copy of the manufacturer's current alcoholic beverage license or permit and a copy of the manufacturer's winery license issued by the federal alcohol and tobacco tax and trade bureau.

DIVISION II

COMMISSION AND DIVISION DUTIES — BONDS, PAYMENTS, AND REPORTS

Sec. 20. Section 123.10, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The governor shall appoint the administrator of the alcoholic beverages division, subject to confirmation by the senate, to a four-year term. A vacancy in an unexpired term shall be filled in the same manner as a full-term appointment is made. The administrator shall not be a member of the commission. The administrator's salary shall be fixed by the general assembly. The administrator shall be qualified to perform the administrator's duties by managerial ability and experience as a business executive. ~~The administrator shall post a bond paid from the state general fund in an amount established by the governor to insure proper discharge of the administrator's duties.~~

Sec. 21. Section 123.24, subsections 2 and 3, Code 2013, are amended to read as follows:

2. 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~~ electronic funds transferred by automated clearing house, wire transfer, or another method deemed acceptable by the administrator, in payment of alcoholic liquor. If a ~~check payment~~ 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 payment~~ is not made within ten days of the service of notice, the licensee's liquor control license may be suspended under section 123.39. The notice of nonpayment and penalty shall be in a form prescribed by the administrator, and shall be sent by certified mail.

b. If upon notice and hearing under section 123.39 and pursuant to the provisions of chapter 17A concerning a contested case hearing, the administrator determines that the class "E" liquor control licensee failed to satisfy the obligation for which the ~~check payment~~ was issued within ten days after the notice of nonpayment and penalty was served on the licensee as

provided in paragraph "a" of this subsection, the administrator may suspend the licensee's class "E" liquor control license for a period not to exceed ten days.

3. The administrator may refuse to sell alcoholic liquor to a class "E" liquor control licensee who tenders a ~~check or electronic funds transfer~~ payment which is subsequently dishonored until the outstanding obligation is satisfied.

Sec. 22. Section 123.55, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The commission shall cause to be prepared an annual report to the governor of the state, ending with June 30 of each fiscal year, showing fully the results of on the operations operation and financial position of the division covering the period since the last previous report for the preceding fiscal year. ~~Such~~ The report shall ~~show~~ include but is not limited to the following information:

Sec. 23. REPEAL. Section 123.8, Code 2013, is repealed.

DIVISION III BEER AND WINE PROVISIONS

Sec. 24. Section 123.3, subsections 7 and 19, Code 2013, are amended to read as follows:

7. "Beer" means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five percent of alcohol by weight or six and twenty-five hundredths percent of alcohol by volume but not including mixed drinks or cocktails mixed on the premises.

19. "High alcoholic content beer" means beer which contains more than five percent of alcohol by weight or six and twenty-five hundredths percent of alcohol by volume, but not more than twelve percent of alcohol by weight or fifteen percent of alcohol by volume, that is made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains. Not more than one and five-tenths percent of the volume of a "high alcoholic content beer" may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol. The added flavors and other nonbeverage ingredients may not include added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine.

Sec. 25. Section 123.99, Code 2013, is amended to read as follows:

123.99 False statements.

If any person, for the purpose of procuring the shipment, transportation, or conveyance of any intoxicating ~~liquors liquor, wine, or beer~~ within this state, shall make to any person, company, corporation, or common carrier, or to any agent thereof, any false statements as to the character or contents of any box, barrel, or other vessel or package containing such ~~liquors liquor, wine, or beer~~; or shall refuse to give correct and truthful information as to the contents of any such box, barrel, or other vessel or package so sought to be transported or conveyed; or shall falsely mark, brand, or label such box, barrel, or other vessel or package in order to conceal the fact that the same contains intoxicating ~~liquors liquor, wine, or beer~~; or shall by any device or concealment procure or attempt to procure the conveyance or transportation of such ~~liquors liquor, wine, or beer~~ as herein prohibited, the person shall be guilty of a simple misdemeanor.

Sec. 26. Section 123.100, Code 2013, is amended to read as follows:

123.100 Packages in transit.

Any peace officer of the county under process or warrant to the peace officer directed shall have the right to open any box, barrel, or other vessel or package for examination, if the peace officer has reasonable ground for believing that it contains intoxicating ~~liquors liquor, wine, or beer~~, either before or while the same is being so transported or conveyed.

Sec. 27. Section 123.101, Code 2013, is amended to read as follows:

123.101 Record of shipments.

It shall be the duty of all common carriers, or corporations, or persons who shall for hire carry any intoxicating ~~liquors~~ liquor, wine, or beer into the state, or from one point to another within the state, for the purpose of delivery, and who shall deliver such intoxicating liquor, wine, or beer to any person, company, or corporation, to ~~keep, at each station or office where it employs an agent or other person to make delivery of freight and keep records relative thereto, a record book, wherein such carrier shall, promptly upon receipt and prior to delivery, enter in ink, in legible writing, in full, maintain a proper record of the name of the consignor of each shipment of intoxicating liquor to be delivered from or through such station, wine, or beer from where shipped, the date of arrival, the quantity and kind of intoxicating liquor, wine, or beer, so far as disclosed by lettering on the package or by the carrier's records, and to whom and where consigned, and the date delivered.~~

Sec. 28. Section 123.102, Code 2013, is amended to read as follows:

123.102 Inspection of shipping records.

The ~~record book~~ records required by section 123.101 shall, during business hours, be open to inspection by any peace or law enforcing officer. It ~~shall be~~ is a simple misdemeanor to refuse such inspection.

Sec. 29. Section 123.103, Code 2013, is amended to read as follows:

123.103 Record receipt upon delivery.

~~No shipment billed in whole or in part as intoxicating liquor shall be delivered to the consignee until such consignee upon such record book enters in ink, in legible writing, the consignee's~~ The full name and residence or place of business, giving the name of the city, and the street name and number if any, and certifies of the consignee of a shipment billed in whole or in part as intoxicating liquor, wine, or beer, shall be properly recorded at the time of delivery and the consignee shall certify that such the intoxicating liquor, wine, or beer is for the consignee's own lawful purposes.

Sec. 30. Section 123.104, Code 2013, is amended to read as follows:

123.104 Unlawful delivery.

It ~~shall be~~ is a simple misdemeanor for any corporation, common carrier, person, or any agent or employee thereof:

1. To deliver any intoxicating ~~liquors~~ liquor, wine, or beer to any person other than to the consignee.
2. To deliver any intoxicating ~~liquors~~ liquor, wine, or beer without having the same ~~received for~~ properly recorded as provided in section 123.103.
3. To deliver any intoxicating ~~liquors~~ liquor, wine, or beer where there is reasonable ground to believe that such intoxicating liquor, wine, or beer is intended for unlawful use.

Sec. 31. Section 123.106, Code 2013, is amended to read as follows:

123.106 Federal statutes.

The requirements of this chapter relative to the shipment and delivery of intoxicating ~~liquors~~ liquor, wine, or beer and the records to be kept thereof shall be construed in harmony with federal statutes relating to interstate commerce in such ~~liquors~~ liquor, wine, or beer.

Sec. 32. Section 123.107, subsection 1, paragraph a, Code 2013, is amended to read as follows:

- a. To set out exactly the kind or quantity of intoxicating ~~liquors~~ liquor, wine, or beer manufactured, sold, given in evasion of the statute, or kept for sale.

Sec. 33. Section 123.111, Code 2013, is amended to read as follows:

123.111 Purchaser as witness.

The person purchasing any intoxicating liquor, wine, or beer sold in violation of this chapter shall in all cases be a competent witness to prove such sale.

Sec. 34. Section 123.115, Code 2013, is amended to read as follows:

123.115 Defense.

In any prosecution under this chapter for the unlawful transportation of intoxicating ~~liquors~~ liquor, wine, or beer it shall be a defense that the character and contents of the shipment or thing transported were not known to the accused or to the accused's agent or employee.

Sec. 35. Section 123.116, Code 2013, is amended to read as follows:

123.116 Right to receive ~~liquors~~ liquor, wine, or beer.

The consignee of intoxicating ~~liquors~~ liquor, wine, or beer shall, on demand of the carrier transporting such ~~liquors~~ liquor, wine, or beer, furnish the carrier, at the place of delivery, with legal proof of the consignee's legal right to receive such ~~liquors~~ liquor, wine, or beer at the time of delivery, and until such proof is furnished the carrier shall be under no legal obligation to make delivery nor be liable for failure to deliver.

Sec. 36. Section 123.117, Code 2013, is amended to read as follows:

123.117 Delivery to sheriff.

If such proof is not furnished the carrier within ten days after demand, the carrier may deliver such ~~liquors~~ liquor, wine, or beer to the sheriff of the county embracing the place of delivery, and such delivery shall absolve the carrier from all liability pertaining to such ~~liquors~~ liquor, wine, or beer.

Sec. 37. Section 123.118, Code 2013, is amended to read as follows:

123.118 Destruction.

The sheriff shall, on receipt of such ~~liquors~~ liquor, wine, or beer from the carrier, report the receipt to the district court of the sheriff's county, and the court shall proceed to summarily enter an order for the destruction or forfeiture to the state of such ~~liquors~~ liquor, wine, or beer.

Sec. 38. Section 123.120, Code 2013, is amended to read as follows:

123.120 Attempt to destroy.

The destruction of or attempt to destroy any liquid by any person while in the presence of peace officers or while a property is being searched by a peace officer, shall be competent evidence that such liquid is intoxicating liquor, wine, or beer and intended for unlawful purposes.

Sec. 39. Section 123.121, unnumbered paragraph 2, Code 2013, is amended to read as follows:

In any prosecution under this chapter for the unlawful transportation of intoxicating liquor, wine, or beer, the offense shall be held to have been committed in any county in which such liquor, wine, or beer is received for transportation, through which it is transported, or in which it is delivered.

Sec. 40. Section 123.138, subsection 1, Code 2013, is amended to read as follows:

1. Each class "A" or special class "A" permittee shall keep proper ~~books of account and records~~ showing the amount of beer sold by the permittee, and these ~~books of account records~~ 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 permittee~~, class "C" permittee, ~~and retail liquor control licensee~~ shall keep proper ~~books of account and records~~ showing each purchase of beer made by the permittee and licensee, 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 pursuant to section 123.30, subsection 1, during normal business hours of the permittee or licensee.

Sec. 41. Section 123.144, Code 2013, is amended to read as follows:

123.144 Bottling beer.

1. No person shall bottle beer within the state of Iowa ~~for purposes other than for individual consumption in a private home~~, except class "A", special class "A", class "AA", and special class "AA" permittees who have complete equipment for bottling beer and who have received the

approval of the local board of health as to sanitation, ~~and it.~~ It shall be the duty of local boards of health to inspect the premises and equipment of class "A", ~~special class "A", class "AA", and special class "AA"~~ permittees who desire to bottle beer.

2. However, any person of legal age may bottle beer for personal use and if it is not sold or offered in exchange for any type of consideration. In addition, such beer may be removed from the premises where it was bottled for personal use if the beer is not sold or offered in exchange for any type of consideration.

Sec. 42. Section 123.185, Code 2013, 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 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 pursuant to section 123.30, subsection 1, during normal business hours of the permittee.

Approved April 10, 2013