

Report of the Special Commission
to Study
Liquor Control Legislation
for Iowa

Published by
THE STATE OF IOWA
Des Moines

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Iowa Commission to Study Liquor Control Legislation

THE STATE CAPITOL BUILDING
DES MOINES

LETTER OF TRANSMITTAL

November 1, 1933.

THE HONORABLE CLYDE L. HERRING,
Governor of Iowa.

Sir.

I have the honor to transmit herewith the report and recommendations of your commission for the study of liquor control.

The Commission has conducted its deliberations in accordance with your suggestions, that a plan for liquor control for this state must, if it is to be accepted, represent a real forward step in the promotion of temperance.

The rule that true temperance must be promoted has been the yardstick by which all proposals and all existing methods of control, has been measured by your Commission. It is believed that a liquor control code based upon the recommendations herewith submitted, will more satisfactorily control traffic in liquor than any laws heretofore enacted in this state.

The commissioners desire that I advise you that they stand ready during the forthcoming special session of the General Assembly to assist in any way possible with the enactment of suitable liquor control legislation.

Sincerely yours,

W. H. MILLHAEM,
Secretary.

Explanatory Note: Carrying out his pledge to the state to exert every influence at his command that Iowa should enact liquor control legislation that would promote temperance, Governor Clyde L. Herring on September 9, 1933, appointed a commission of nine men, one from each congressional district, to study and recommend a plan of control to the Iowa legislature.

The members of the commission are:

General Mat A. Tinley, physician and surgeon, Council Bluffs.

Joe R. Frailey, attorney and member of the Iowa Senate, Fort Madison.

Richard R. Lane, hotel executive, Davenport.

O. R. Latham, president of Iowa State Teachers College, Cedar Falls.

Bernard Manley, merchant, Mason City.

E. G. Moon, attorney, Ottumwa.

Stoddard Lane, pastor Plymouth Congregational Church, Des Moines.

W. R. Lee, farm owner and attorney, Carroll.

John W. Carey, editor, Sioux City.

The recommendations printed herewith were transmitted to Governor Herring November 1, 1933, who placed them before a special session of the Forty-fifth General Assembly November 8, 1933.

November 1, 1933

THE HONORABLE CLYDE L. HERRING,
Governor of Iowa.

Sir:

The commission appointed by you to consider the problem with which the government of this state will be faced when the 18th Amendment to the Constitution of the United States has been repealed, and to recommend to you and the Iowa legislature, provisions and regulations for the conduct of traffic in alcoholic beverages, begs to submit the following unanimous report, with the appended minority comment by Commissioners Stoddard Lane and E. G. Moon:

Your commission, in dealing with the problem at hand, deemed it advisable to ascertain to the best of its ability the progress that has been made in the handling of liquors through various forms of legislation, not only in the United States, but in foreign nations.

Consequently, these recommendations are not entirely original but have been gleaned from statutory provisions enacted by governments throughout the world.

Our first consideration has been an earnest and ardent desire to suggest legislation that would promote temperance in Iowa.

With the earlier examples in mind of the breakdown of state prohibition in Iowa, and the post-war breakdown of federal prohibition, your commission believes that absolute prohibition of traffic in alcoholic beverages in Iowa will not promote temperance.

We feel satisfied that the citizens of Iowa desire a change in the laws governing the manufacture and sale of liquor. We base our opinion, first, on the results of a referendum in 1917 when a majority voted against a proposed amendment to the state constitution, and, second, on the results of the vote in a special election in 1933 when a majority voted for repeal of the 18th Amendment to the Constitution of the United States.

Whether or not prohibition is the eventual solution of the liquor problem, the fact remains that it has largely lost the support of public

opinion. Prohibition cannot, in our opinion, have any measure of success without the overwhelming backing of public sentiment.

Therefore, it seems to your commission that the only alternative is between less control and more control. We believe it to be in the interests of the public good to devise the best method of control which experience and wisdom can suggest.

Your commission is under no illusions as to the difficulty of the undertaking. We are convinced that this whole problem is primarily one of education and that to any system of legislative control must be added a program of intensive education.

In preparing a plan and recommendations, your commission has been influenced by the following principles:

First—One of the greatest obstacles to the success of any liquor control plan is the lust of those engaged in the traffic for gain. Our aim has been to eliminate private profit as far as possible.

Second—In company with what we believe to be a preponderate majority of the people of Iowa, we consider the saloon as it was known before prohibition an undesirable adjunct to any community, and we are opposed to any solution or attempted solution of the liquor problem that would bring it back into existence, with its well known attendant evils either under the name of saloon or under any other name.

Third—There is a difference between the inherent harmfulness of various kinds of alcoholic beverages. This difference should be utilized to lessen the evils of the traffic by subjecting each class to a degree of control proportionate to its alcoholic content.

Fourth—Because of the inherent evils to some persons in the use of alcoholic beverages, they cannot be classed with the usual and everyday commodities of trade and commerce. Some restrictions and many regulations are necessary to lessen the evils of said alcoholic beverages while admitting the necessity of allowing some traffic in the same.

Fifth—We recognize the fact that a large majority of our fellow citizens desire to exercise the freedom of choice as to whether they will use or abstain from alcoholic beverages on the ground that indulgence in such beverages is a matter for the individual to decide. We also recognize the fact that an appreciable number of people are unable to exercise the necessary self-restraint to save themselves from over-indulgence, especially if exposed to undue temptations.

Sixth—The futility of any law that does not meet the reasonable requirements of the public for alcoholic beverages has been repeatedly demonstrated. Conversely, however, the necessity of an effective liquor law should appeal to the judgment of a substantial majority if such a law be reasonable in its provisions, not unduly oppressive, and adequate to supply the public with what it wants.

Governed by these principles, your commission respectfully submits the following recommendations for liquor control legislation.

I. REPEAL OF PRESENT PROHIBITION.

As a first step, your commission recommends the repeal of all liquor statutes of Iowa which conflict with the commission's suggestions for liquor control.

II. ABSOLUTE CONTROL OF THE TRAFFIC IN ALCOHOLIC BEVERAGES THROUGH A LIQUOR CONTROL COMMISSION.

In order that the liquor traffic may be kept under effective control and nonpartisan, your commission recommends that administration of any liquor control bill enacted be vested in a commission to be known as the Iowa Liquor Control Commission, composed of five members, appointed for terms of six years, the appointments to be rotated so that at all times a majority of the members of the commission are qualified to carry on continuing policies of administration that will further the public interest.

The members of the commission should be appointed by the governor and appointments should be confirmed by the senate. Their salaries should be thirty-six hundred (\$3600.) dollars per annum, and they should be paid necessary traveling expenses. In appointing the first commission, the governor should appoint one member for a term of two years, two members for terms of four years, and two members for terms of six years. Not more than three members of said commission should be affiliated with any one political party.

The governor should have authority to fill any vacancy for an unexpired term but the appointment should be confirmed by the senate at the next legislative assembly following the appointment. Any member of the commission should be eligible to succeed himself.

The commission should be empowered to engage a liquor control administrator to actively administer the law. The salary of the administrator should be not less than seventy-five hundred dollars (\$7500.) per year and not more than ten thousand dollars (\$10,000.) per year.

The commission should be invested with broad discretionary powers in the administration of the liquor control act, which should be enforced through the liquor control administrator. It should be allowed to engage such other necessary helps as in its opinion may be necessary to conduct its affairs. The liquor control administrator, with the consent of the commissioners, should have authority to employ a deputy administrator, police and inspection chiefs and such other necessary personnel as may be deemed essential to carry out the powers delegated to him.

The commissioners, the administrator and such other employees as the commission designates should be bonded.

No member or employee of the commission, directly or indirectly, individually or as a member of a partnership or as a shareholder in a corporation, should have any interest whatsoever in dealing in, or in the manufacture of alcoholic liquors, nor receive any kind of profit whatsoever, nor have any interest whatsoever in the purchases or sales by the persons authorized to purchase or sell alcoholic liquor, except that no provisions should prevent any such commissioner or employee from purchasing and keeping in his possession, for the personal use of himself, or his family or guests, any liquors which may be purchased.

In order to divorce the liquor control commission and its employees from politics and to prevent a change of administration from hampering the efficiency of the commission, statutory provisions should be enacted providing that no employee could be changed without cause.

III. DISTRIBUTION OF ALCOHOLIC BEVERAGES.

In our investigations we have found that the experience of every country supports the idea that beer does not constitute a serious social problem. Your commission, however, is firmly of the opinion that the best solution of the problem of high content alcoholic beverages is through an absolute monopoly of sale by the state.

While it is true that some states have recently enacted legislation to take effect when repeal is ratified, following the licensing method of control, we are opposed to such a method of distribution because it retains a fundamental flaw, the private profit motive which makes inevitable the effort to increase sales.

By a state liquor monopoly we mean the adoption of a system of liquor distribution under which the state takes over as an exclusive privilege the sale of high content alcoholic beverages in state liquor stores for consumption off the premises of sale.

Such a system should be organized and directed by the Iowa Liquor Control Commission through the liquor control administrator. The commission should be charged with the task of establishing state owned stores for the sale by original package only of all alcoholic beverages, except beer, with the further provision that the privilege of consumption on certain premises should be granted by special licenses as hereinafter provided.

We do not feel that the state could successfully engage in the manufacture of liquor because of the magnitude of such operation, and the added fact that the state might not be able to compete with distilleries of famous brands in fair competition. For that reason, we suggest that the commission be vested with plenary powers to license, inspect and control manufacture of all liquors, except beer, within the boundaries of the state and to revoke such licenses for cause.

The liquor commission, however, should have the exclusive authority to blend, import and sell liquors and regulate the entire liquor industry in the state.

It should have the authority to rent, lease, or purchase real estate, and other facilities as may be required.

The commission should also have the right to fix prices on its merchandise, to regulate prices on liquors sold through the special licenses and to change prices at will. At all times quality should be kept high enough, and prices should be kept low enough to prevent competition of illicit vendors.

It should also have power to hold hearings on matters in dispute including the authority to subpoena witnesses and records and to make binding decisions.

The wisdom of conferring broad powers on the commission is substantiated by the fact that most of the control systems now in effect in foreign nations and that several of the acts passed by the states of the United States to take effect upon the repeal of the 18th Amendment, provide for government monopolies of sale.

A. A SECOND PLAN FOR DISTRIBUTION.

Your commission is aware of the possible constitutional obstacles as to state monopoly on liquor sales.

However, it is our opinion that a bill can be drawn which will meet the requirements of our constitution. Should the legislature determine that our plan is incompatible with the constitutional laws of this state, then we recommend the establishment of one or more state controlled holding corporations, with subsidiary corporations to act as the selling agents only of the commission.

Under such a plan, private capital would be allowed to invest in the stock of such corporations but the dividends should be limited to six per cent on the capital stock invested. Such profits should be divided as follows: The first three per cent should go to the stockholders, the next three per cent to the state, the next three per cent to the stockholders, and all in excess of nine per cent should accrue to the state.

In order that the state might maintain control of the corporations, provisions should be enacted delegating the five commissioners to the board of directors of the holding corporations. Five more directors should be elected by the private stockholders, and the eleventh director should be nominated by the governor with the consent of the other ten directors.

Subsidiary corporations may be set up in cities and towns at the discretion of the liquor commission to operate stores.

In such cases, the holding corporation should retain control of fifty per cent of the stock and the other fifty per cent should be sold in the community in which the store is located.

There should be three directors of the subsidiary, one named by the commission, one by the stockholders of the community, and one by these two directors.

This plan of distribution is predicated on local option as outlined hereafter and does not surrender any of the commission's regulatory rights.

Should it become necessary to adopt this method of distribution, your commission suggests that it be temporary and that the legislature at once pass the necessary acts to bring about the amendment of our state constitution to allow the state to assume an absolute monopoly of sale.

We therefore urge the legislature to enact into its bill, provisions for the liquor commission to option all stock sold in said corporations so that it might take up said stock in the future at the original purchase price.

IV. REGULATION OF SALES OF ALCOHOLIC BEVERAGES.

A. Intoxicating Liquors—The exclusive right of the Iowa Liquor Commission to sell alcoholic beverages should be protected by legislation forbidding any sale whatsoever of alcohol, or any spirits, wine or other alcoholic liquors, with the exception of beer, except by the commission. The exception to this rule should be through certain licenses outlined hereinafter.

Manufacturers of liquors, except beer, being licensed for operation in the state could sell to the commission. They would not, however, be allowed to sell to any individual or corporation within the state.

B. Individual Permits—At the commission dispensaries, individuals should be allowed to purchase liquors providing they possess permits to do so. Individual permits should be issued by the clerk of the district court in each of the counties of the state; issuance of permits should be mandatory to the county.

The fee for such permit should be one dollar per year. The permit should be good for one year or unfinished part of the current permit year. All permits should terminate July 1st of each year. This fee should be divided equally between the county and the liquor commission fund. The commission or any district judge or municipal judge should be given authority to revoke any individual permit, but such decision should be subject to final review by the commission. Drunkenness or simulation of drunkenness should be sufficient cause for revocation of an individual permit.

The liquor commission should determine the necessary information that should be given to qualify one for a permit to purchase, except that no permit should be granted to any person under the age of twenty-one (21) years. On the permit should be recorded the amount and date of each purchase. This information should also be kept in the records of each state dispensary at which the permit holder presents his permit. The commission should have the authority to revoke the permit when, in its opinion, the privilege to purchase is abused.

C. Local Option—Your commission is of the firm belief and conviction that the principle of local option should prevail as to the establishment of any liquor stores or the issuance of special licenses. Liquor stores shall be established or special licenses issued only in cities and incorporated towns. Any city or incorporated town may seek the establishment of a state liquor store within its limits. On the filing with the city or town clerk of such city or incorporated town, of a petition signed by a number of voters equivalent to twenty per cent of the votes cast at the last general election, an election shall be ordered and a majority vote will entitle said city or incorporated town to the establishment of a state liquor store and the issuance of special permits at the discretion of the liquor commission. No second election on the establishment or abolishment of liquor stores should be held within less than two years after the preceding election, and all elections after the first election should be held at a general election and only on petition signed by a number of voters equivalent to thirty per cent of the votes cast at the preceding general election. No state liquor store should be established or special licenses issued in any city or incorporated town except upon a majority vote in such city or incorporated town. Nor should any state liquor store be established or special licenses issued outside any city or incorporated town.

The commission should have the power to fix the number of stores or special licenses in any city or town or in its discretion to refuse to establish any such store or grant any such special license, notwithstanding a local option vote therein favorable thereto.

D. Liquor Consumed on Premises—The commission believes that hotels, restaurants, clubs, steamboats and dining-cars should be allowed some privilege of dispensing beverages of light alcoholic content with

meals through special licenses. No sale of liquor with a higher alcoholic content than that obtained through natural fermentation should be sold under these licenses.

The liquor commission should issue and supervise such special licenses. The hours during which such alcoholic beverages could be served with meals should be limited by the commission, except that the commission might issue temporary permits for the consumption of light content alcoholic beverages on the premises for banquets and social affairs. In all such temporary permits, however, the commission should specify the amount of liquor to be so sold and consumed.

The commission should have the right to designate what hotels, restaurants and clubs shall be allowed to sell alcoholic liquors for consumption with meals. A "hotel" should mean every building or other structure, kept, used, maintained, advertised and held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests in which rooms are used for sleeping accommodations for such transient guests and having one or more dining rooms being connected in the same building or buildings in connection therewith and such building or buildings, structure or structures, being provided in the judgment of the commission, with adequate and sanitary dining room equipment and capacity, and having employed therein such number and kinds of servants and employees as the commission may by regulation prescribe for preparing, cooking and serving suitable food for its guests.

The commission should define the word "restaurant" as a space in a suitable building approved by the commission, kept, used, maintained, advertised or held out to the people to be a place where the principal business is the serving of meals without sleeping accommodations, such space being provided, in the judgment of the commission, with adequate and sanitary kitchen and dining-room equipment and capacity or having employed therein such number and kinds of servants and employees as the commission may by regulation prescribe for preparing, cooking and serving suitable food for its guests.

The word "club" should mean an association of persons, whether incorporated or unincorporated, for the promotion of some common object (not including associations organized for any commercial or business purpose the object of which is money profit), owning, hiring, or leasing a building, or space in a building, of such extent and character as in the judgment of the commission may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment, implements and facilities, and employing a sufficient number of servants or employees for cooking, preparing and serving food and meals for its members and their guests; provided, that such club files with the commission annually within ten days of February 1st in each year a list of the names and residences of its members, and similarly files within ten days of the election of any additional member, his name and address, and that its aggregate annual membership fees or dues and other income, exclusive of any proceeds of the sale of alcoholic liquor, are sufficient to defray the annual rental of its leased or rented premises, or, if such premises are owned by the club, are sufficient to defray the

annual rental of its leased or rented premises; or, if such premises are owned by the club, are sufficient to meet the taxes, insurance, repairs, and the interest on any mortgage thereof; and provided, further that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting, and that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquor to the club or to the members of the club or its guests introduced by members, beyond the amount of such salary as may be fixed and voted at annual meetings by the members or by its directors or other governing body and as reported by the club to the commission, within three months after such annual meeting, and as shall in the judgment of the commission be reasonable and proper compensation for the services of such member, officer, agent or employee.

The words "dining-car" and "steamboat" should be similarly defined.

E. Sales of Intoxicants off the Premises—Aside from the liquors sold under special licenses, previously described, there should be no consumption whatsoever on the premises of sale of any liquor sold in the state of Iowa, except beer.

F. Medicinal Sales—Doctors, dentists, druggists, scientific laboratories, hospitals, soldiers homes, sanitoriums, homes for the aged, and veterinarians should be licensed by the commission to obtain and dispense for medicinal and laboratory purposes only, alcoholic beverages. All such liquors should be obtained from the commission. The amounts sold through these licenses should be rigidly restricted and inspected, and the commission should have power to revoke all such licenses for cause.

G. Holidays and Sundays—There should be no sale of liquors in the state of Iowa on holidays, Sundays or election days.

H. Sacramental Liquors—Ministers, clergymen, rabbis, and priests should be allowed to purchase from the commission sufficient liquors for sacramental purposes through a special permit to be issued by the commission when such sales are consummated.

I. Beer—Your commission believes that no recommendations on the sale of beer under the present law are necessary in this report.

V. REVENUE FROM ALCOHOLIC BEVERAGES.

Your commission does not favor a statutory tax on liquor sales in Iowa. A tax could only be changed by legislative action. In order to prevent illicit sales, we believe the Iowa Liquor Commission should be unhampered in keeping prices of liquor in Iowa on a level with prices in surrounding states.

In addition to such revenue as the state receives from the sale of individual permits, the entire profits from the sale of liquor by the commission should accrue to the state. If the controlled corporations plan is enacted, the state would share the profits of the corporation as previously outlined.

All revenue over and above operating and educational expenses derived by the state should be paid into the general fund of the state treasurer to be used as a replacement tax on real estate.

VI. TEMPERANCE EDUCATION.

A board of research, statistics, and temperance education should be appointed and maintained by the commission out of the profits accrued from the sale of liquor or other sources.

The board of research and education should prepare an annual report and financial statement, including actual figures revealing the total amount of liquor sold during the year, the increase or decrease in liquor sales, arrests for drunkenness, and any other information that might enable the people to judge the effect of liquor control.

The board should conduct temperance education based on the latest scientific findings as to the effect of alcohol on the human body. The subject should also be dealt with on the historical, economic and moral sides.

This temperance information should be supplied to and taught by the public schools, state colleges, universities and other educational institutions.

This information should be provided gratuitously to colleges and other institutions not owned by the state. It should also be disseminated through all agencies available.

VII. CONCLUSIONS.

No attempt has been made in this report to analyze or state in detail all of the provisions the Iowa liquor control act should contain. Only what seemed to the commission to constitute its most important phases have been mentioned.

If the legislature should see fit to adopt the plans suggested by this commission, or any similar plan of liquor control, this commission takes the liberty of suggesting that fundamentals be emphasized in what ever statute is adopted and that as many details and technicalities as possible be omitted therefrom; and that in the interest of effective enforcement plenary powers be delegated to the liquor control commission to adopt working regulations to meet emergencies as such emergencies arise, and to accommodate itself to changing conditions and varying situations.

The commission urges that a bill be drawn, containing the major features which we have outlined herein, for submission to the special session of the Iowa legislature. We suggest that the president of the senate and the speaker of the house appoint a joint committee to prepare such a bill.

Respectfully submitted,
(Signed) MAT A. TINLEY, *Chairman*
JOE R. FRAILEY
RICHARD R. LANE
O. R. LATHAM
BERNARD MANLEY
E. G. MOON
STODDARD LANE
W. R. LEE
JOHN W. CAREY

W. H. MILLHAEM, *Secretary.*

MINORITY REPORT BY COMMISSIONER STODDARD LANE

TO HIS EXCELLENCY, THE GOVERNOR OF IOWA:

I am sorry to make a minority report. I agree with my fellow-commissioners in so much of their point of view that I would like to go all the way with them. I want to say that it has been a privilege to work with these men. I have found them to be open-minded to a remarkable degree and sincerely desirous of finding the best solution possible of this exceedingly knotty problem. They have not always agreed with me but they have been very tolerant and willing to listen to another point of view.

I feel that on the whole the plan suggested by the commission is one of high merit. I think it ought to go a long way toward mitigating many of the evils of the liquor traffic and setting up a form of social control that will be reasonably effective. I hope that it will tend to eliminate the private profit motive, reduce the demand for liquor, prevent the return of the saloon, curb the power of the liquor interests, make illicit sale of liquor unprofitable, encourage temperance, promote a sane program of education and change the psychology of the situation in favor of law observance and self-control. I think that this plan is the best state plan that I have seen and I feel confident that it will have widespread support throughout the state.

I do feel, however, that there is one serious omission and I would not be true to my own convictions if I did not state it. There is no provision in the plan against the advertising of hard liquors. It is my firm conviction that all advertising of such liquor should be strictly prohibited. Many of our newspapers will not accept it anyway and I feel that none should be permitted to accept it. It will be impossible to prevent the advertising that will come to us in national magazines and through national broadcasts. But the amount of such advertising can be materially reduced by prohibiting it in all state publications and over all radio stations in Iowa. The same ban should be put on billboard and all other forms of advertising.

As I see it, this is the only procedure that is consistent with our purpose. We want to reduce the demand for liquor. We want to lessen the consumption of liquor. Therefore we want to eliminate all stimulation of demand, all encouragement to increased consumption.

Now there is only one reason for advertising. The aim of advertising is to increase sales—to increase demand—to increase private profit. And so, advertising is directly opposed to the main purpose of the liquor control plan. It will stimulate the very thing which we say we do not want stimulated.

I therefore contend that the only logical position to take is to eradicate all advertising of hard liquor. To my mind this is vitally essential to the success of the plan. Here is a great chance to prove the genuineness of our purpose and to make a real contribution toward the end in view.

I hope that your excellency will give this important point most careful consideration and that the legislature will include it in the liquor control act which is to be formulated.

Respectfully submitted,
(Signed) STODDARD LANE.

MINORITY REPORT BY E. G. MOON.

TO HIS EXCELLENCY, THE GOVERNOR OF IOWA:

It is my understanding that the sole purpose of advertising is to increase a demand for the product advertised. The purpose of the legislation which we are advising is wholly out of harmony with the purpose which the advertiser has in view. The commission has no desire to encourage or increase demand for liquor but rather hopes that the demand will decrease as time goes on. I therefore concur in the suggestion made by Commissioner Stoddard Lane.

Respectfully submitted,

(Signed) E. G. MOON.



