

State of Iowa

1963

**The Iowa
Liquor Control Act**

CHAPTER 123

**As amended by the
60th General Assembly**

1963



Published by
THE STATE OF IOWA
Des Moines

THE IOWA LIQUOR CONTROL ACT

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123.1. Public policy declared. This chapter shall be cited as the "Iowa Liquor Control Act," and shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose, and it is the public policy that the traffic in liquor is so affected with a public interest that it is subject to the exercise of the police power of the state, except as hereinafter provided for in this "chapter". (Amended by Sen. 1 - S.S. 427 - 60th Gen. Assembly)

The Iowa Liquor Control Act

123.2. Conflicting statutes superseded. Whenever any provisions of the existing laws are in conflict with the provisions of this chapter, the provisions of this chapter shall control and supersede all existing laws.

CHAPTER 123

123.3. General provisions. As amended by the 60th General Assembly 1963. It shall be unlawful to manufacture, sell, possess, or use any fermented, spirituous, or alcoholic liquor, except beer as defined in chapter 124, or as the same may hereafter be amended for any purpose whatsoever except upon the terms, conditions, limitations and restrictions as set forth in this chapter.

123.4. Sacramental wines. Nothing in this chapter shall affect the sale or use of sacramental wines to the clergy for sacramental purposes.



123.5. Definitions. For the interpretation of this chapter, unless the context indicates a different meaning:

MEMBERS OF THE IOWA LIQUOR CONTROL COMMISSION

Homer R. Adcock, Chairman

Jay C. Colburn

Walter E. Edelen

1. "Commission" means the commission created by this chapter.

2. "Liquor" means any beverage obtained by distillation of any fermented material, whether once or oftentimes, whatever the name thereof, and includes synthetic liquors.

3. "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, and includes, among other things, brandy, rum, whiskey, and gin.

4. "Wine" means any beverage obtained by the fermentation of natural sugar contents of fruit or other vegetable matter or other

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THE IOWA LIQUOR CONTROL ACT

123.1. **Public policy declared.** This chapter shall be cited as the "Iowa Liquor Control Act," and shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose, and it is declared to be the public policy that the traffic in alcoholic liquors is so affected with a public interest that it should be regulated to the extent of prohibiting all traffic in them, except as hereinafter provided for in this "chapter". (Amended by Sec. 1 - S.F. 437 - 60th Gen. Assembly)

123.2. **Conflicting statutes superseded.** Whenever any provisions of the existing laws are in conflict with the provisions of this chapter, the provisions of this chapter shall control and supersede all existing laws.

123.3. **General prohibition.** It shall be unlawful to manufacture for sale, sell, offer or keep for sale, possess and/or transport vinous, fermented, spirituous, or alcoholic liquor, except beer as defined in chapter 124, or as the same may hereafter be amended for any purpose whatsoever except upon the terms, conditions, limitations and restrictions as set forth herein.

123.4. **Sacramental wines.** Nothing in this chapter shall affect the purchase or use of sacramental wines to be used exclusively for sacramental purposes.

123.5. **Definitions.** For the interpretation of this chapter, unless the context indicates a different meaning:

1. "Commission" means the commission created by this chapter under the name of the "Iowa Liquor Control Commission".

2. "Alcohol" means the product of distillation of any fermented liquor, rectified either once or oftener, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

3. "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, and includes, among other things, brandy, rum, whisky, and gin.

4. "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits, (grapes, apples, etc.) or other

agricultural products containing sugar (honey, milk, etc.).

5. "Alcoholic liquor" or "alcoholic beverage" includes the three varieties of liquor above defined except beer as defined in Chapter 124 of the Code, (alcohol, spirits, and wine), and every liquid or solid, patented or not, containing alcohol, spirits, or wine, and susceptible of being consumed by a human being for beverage purposes. Any liquid or solid containing more than one of the three varieties above defined is considered as belonging to that variety which has the highest percentage of alcohol, according to the order in which they are above defined. (Amended by Sec. 2 - S.F. 437 and Sec. 1 - S.F. 485 - 60th G. A.)

6. "Person" includes any natural person, association, partnership, corporation, and club.

7. "Whosoever" when used in reference to any offended under this chapter, includes every person who acts for himself or for any other person, and includes also such other person.

8. "Residence" means the premises where a person resides, permanently, or temporarily.

9. "License" or "liquor control license" means a contract between the commission and a licensee entitled thereto under the provisions of this chapter. (Amended by Sec. 2 - S.F. 437 - 60th G. A.)

10. "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, or process any substance or substances capable of producing a beverage containing more than one-half of one percent of alcohol by volume and includes "blending," "Bottling," or the preparation for "sale".

11. "Package" means any container or containers, receptacle or receptacles used for holding liquor.

12. "Distillery," or "winery," and "brewery" means not only the premises wherein "alcohol" or "spirits" is distilled, or rectified "wine" is fermented, but in addition a "person" owning, representing or in charge of such premises and the operations conducted thereon, including the blending and bottling or other handling and preparation of "alcoholic liquor" in any form.

13. "Importer" means the "person" transporting or ordering, authorizing or arranging the transportation or shipment of "alcoholic liquor" into the state of Iowa whether such "person" is a resident or citizen of Iowa or not.

14. Repealed. By Sec. 1 - S.F. 179 - 60th G. A.

15. "Import" means the transporting or ordering or arranging for the transportation or ship-

ment of "alcoholic liquor" into the state of Iowa whether by a resident of the state or otherwise.

16. "State liquor store" means a store established by the Liquor Control Commission under this chapter for the sale of alcoholic liquor in the original package for consumption off the premises.

17. "Special distributor" means a person especially designated by the Commission to dispense alcoholic liquors, subject to the provisions of this chapter, in such cities and towns as in the opinion of the commission there is not sufficient demand for a state liquor store.

18. "Warehouse" means any premises or place primarily constructed or used or provided with facilities for the storage in transit or other temporary storage of perishable goods and/or for the conduct of normal warehousing business.

19. "Public place" includes any place, building or conveyance to which the public has or is permitted to have access and any place of public resort.

20. Repealed. By Sec. 2 - S.F. 179 - 60th G. A.

21. Whenever reference shall be made to anything forbidden under this chapter, and relating to alcoholic liquor, the words "to sell" includes: to solicit, or receive an order for; to keep or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with the intent to sell; to keep or transport in contravention of section 123.3; to traffic in for a valuable consideration, promised or obtained directly or indirectly, or under any pretext or by any means whatsoever, to procure or allow to be procured for any other person; and the word "sale" includes every act of selling as above defined.

22. "Wholesaler" means any person who shall sell, barter, exchange, offer for sale or have in possession with intent to sell, alcoholic liquor and wines to retailers for resale.

(The following subsections added to 123.5; by Sec. 2 - S.F. 437 - 60th G. A.)

1. "Air common carrier" means a person engaged in transporting passengers for hire in interstate or foreign commerce by aircraft and operating regularly scheduled flights under a certificate of public convenience issued by the civil aeronautics board.

2. "Club" means a corporation or association of individuals, incorporated or unincorporated, but not including corporations organized for

pecuniary profit, which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership. The licensing authority shall determine whether or not such club shall be entitled to a liquor control license.

3. "Commercial establishment" means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licensed premises of which conform to the standards and specifications of the commission.

4. "Licensed premises" or "premises" means all rooms or enclosures where alcoholic beverages are sold and/or consumed under authority of a liquor control license.

5. "Hotel" or "motel" means a premise or structure licensed by the state department of agriculture and regularly or seasonably kept open in a bona fide manner for the lodging of transient guests, where there is in the same premise or structure an establishment where food is regularly prepared and served and where thirty-five (35) or more sleeping rooms are provided for guests.

123.6. **Commission created.** There is hereby created a commission composed of three electors of this state to be known and designated as the Iowa Liquor Control Commission, not more than two of whom shall belong to the same political party, and no two of whom shall, at the time of appointment, reside in the same congressional district. The Commission shall be held strictly accountable for the enforcement of the provisions of this chapter.

123.7. **Appointment—term.** The members of the first commission shall be appointed by the governor, subject to approval of the senate by a majority vote of the members in executive session as follows: one for a term to expire July 1, 1935; one for a term to expire July 1, 1937; and one for a term to expire July 1, 1939. Said terms shall begin immediately upon the appointment, approval and qualification.

Thereafter, the term of each member of said commission shall be six years; and the governor shall, within sixty days following the organization of each regular session of the general assembly, appoint, with the approval of $\frac{2}{3}$ of the members of the senate in executive session, a

successor to the member of said commission whose term of office will expire July 1 next following.

123.8. **Vacancies.** Any vacancy or vacancies of said commission which may occur when the general assembly is not in session shall be filled by appointment by the governor, which appointment shall expire at the end of thirty days following the organization of the next general assembly. Prior to the expiration of said period of thirty days, the governor shall transmit to the Senate for its approval an appointment for the unexpired portion of the regular term. Any vacancy or vacancies occurring when the general assembly is in session shall be filled in the same manner as regular appointments are made, and before the end of such session, and for the unexpired portion of the regular term.

123.9. **Bonds.** The commissioners shall post a bond or bonds, at the expense of the state, with such sureties as the executive council shall approve to guarantee to the state the proper handling and accounting of such moneys and merchandise and other properties as may be required in the administration of this chapter. It shall be the duty of the commission to secure from all agents, servants, and employees of the commission holding positions of trust a bond or bonds with such sureties as the commission will approve adequate to guarantee to the state the proper handling and accounting of all moneys, merchandise and other properties.

123.10. **Organization—salary—assistants.** The Commission shall, on July 1 of each year, select one of its members as chairman, who shall serve in such capacity for the succeeding year. Each member of the commission shall devote his entire time to the duties of his office, and his salary shall be five thousand dollars a year (Laws of 58th G. A.—Chapt. 1, Sec. 51: The salaries of the three members of the liquor control commission shall be eight thousand dollars (\$8,000.00) for each commissioner for each year of the biennium beginning July 1, 1959, and ending June 30, 1961, to be paid from the Iowa Liquor control act fund.) Said commission may employ a secretary and such other assistants and/or employees as may reasonably be necessary, and at such salary each as may be fixed by the state division of personnel.

123.11. **Expenses.** Members of the commission and said secretary, assistants and/or employees shall be allowed their actual and necessary ex-

penses while traveling on business of the Commission outside of their place of residence; provided, however, that an itemized account of such expenses shall be verified by the member, secretary, assistant and/or employee making claim for payment and shall be approved by a majority of the members of the commission. If such account is paid, the same shall be filed in the office of said commission and be and remain a part of its permanent records. All of said salaries and expenses shall be payable out of the Liquor Control Act Fund created by this chapter.

123.12. Removal. Any member, secretary, officer or employee of said commission shall be removable for any of the causes and in the manner provided by chapter 66 relating to removal from office; such removal shall not be in lieu of any other punishment that may be prescribed by the laws of the state of Iowa.

123.13. Exemption from suit. The commission, or any member of the commission, shall not be personally liable for any action at law for damages sustained by any person, because of any action performed or done by the commission, or any member of the commission, in the performance of their respective duties in the administration and in the carrying out of the purposes and provisions of this chapter.

123.14. Prohibition on members and employees. No member, officer or employee of said commission shall, while holding such office or position, hold any other office or position under the laws of this state or of any other state or of the United States, and shall not engage in any occupation or business inconsistent and/or interfering with the duties of such employment; and no such member, officer or employee shall, while holding such office or position, serve on or under or be a member of any committee of any political party, and shall not, directly or indirectly, use his influence to induce any other officer or officers, employee or employees, elector or electors of this state to adopt his political views or to favor any particular candidate for office, nor shall any such member, officer or employee contribute in any manner, directly or indirectly, any money or other things of value to or for any person or persons, committee or committees, for campaign or election purposes. Any such member, officer or employee who violates any of the terms and/or provisions of this section shall be deemed guilty of corruption.

123.15. Place of business. The principal place of business of the Liquor Control Commission shall be in the city of Des Moines, and the Executive council shall provide suitable quarters or offices for the Liquor Control Commission in Des Moines.

123.16. Powers. The commission shall have the following functions, duties and powers:

1. To buy, import, and have in its possession for sale and sell liquors in the manner set forth in this chapter.

2. To establish, maintain and/or discontinue state liquor stores and special distributors and to determine the cities and towns in which state liquor stores and special distributors shall be located. However, no liquor store or special distributor shall be established within three hundred feet of any school building used for school purposes or any church used as such.

3. To grant and refuse, or cancel for cause, permits for the purchase of liquor.

4. To rent, lease and/or equip any building or any land necessary to carry out the purposes of this chapter.

5. To lease all plants and lease or buy equipment it may consider necessary and useful in carrying into effect the objects and purposes of this chapter.

6. To appoint vendors, clerks, or other employees required for the operation or carrying out of this chapter and to dismiss the same, but not without cause deemed by the commission in its discretion as sufficient; to fix their salaries or remuneration; assign them their title, duties and powers.

7. To issue and grant permits, liquor control licenses and other licenses; and to revoke all such licenses and permits for cause, under this chapter. (As amended by Sec. 3, S.F. 437 - 60th G. A.)

To hear appeals from any order denying an application for a liquor control license. (Added by S.F. 437 - Sec. 3 - 60th Gen. Assembly)

8. To determine the nature, form and capacity of all packages containing liquor kept or sold under this chapter. (As amended by Sec. 4, S.F. 437 - 60th G. A.)

9. To license, inspect and control the manufacture of alcoholic liquors and regulate the entire liquor industry in the state. (The following added by Sec. 4, S.F. 437 - 60th General Assembly to Sub-section 9)

The commission shall create an enforcement division and shall appoint a director, who shall be an attorney licensed to practice in the State of Iowa, and five (5) assistant directors, at least two (2) of whom shall be accountants. The director of the enforcement division shall employ needed clerical help, and such other assistants and agents as are necessary to carry out the enforcement of the laws on liquor control. The enforcement division may enforce the provisions of title six (VI) of the Code in the name of the State of Iowa in proceedings before any court.

10. To employ a chemist, maintain a laboratory, to test, label and certify to all alcoholic liquors sold in Iowa.

11. To establish and maintain in its own name in the state treasury a special account, hereinafter known as the Liquor Control Act fund, in an amount necessary for use of the commission, said amount to be determined by the state comptroller. (As amended by Sec. 4, S.F. 437, 60th G. A.)

123.17 Rules and regulations.

1. The commission may make such rules and regulations not inconsistent with this chapter, which to the commission may seem expedient or necessary for carrying out the provisions of this chapter and for the efficient administration thereof.

2. Without attempting or intending to limit the power of the commission as to the provisions contained in subsection 1 hereof, it is declared that the commission may and it does have the power to make regulations in the manner set forth in the foregoing subsection and that said powers shall extend to and include the following:

(a) Prescribing the duties of the secretary, officers, clerks, servants, agents, or employees of the commission and regulating their conduct while in the discharge of their duties.

(b) Regulating the management, equipment and merchandise of state liquor stores, and warehouses in and from which liquors are transported, kept or sold and prescribing the books and records to be kept therein. This paragraph shall apply to special distributors insofar as in the opinion of the commission it is deemed necessary for proper regulation and control.

(c) Regulating the purchase of liquor generally and furnishing of liquor to state liquor stores and special distributors established under this chapter, determining the classes, varieties, and brands of alcoholic liquors to be kept in state

warehouses or for sale at any state liquor store or by any special distributor.

(d) Prescribing forms or information blanks to be used for the purpose of this chapter or the regulations made thereunder and the terms and conditions under which permits and licenses may be issued or granted.

(e) Prescribing the nature and character of proof to be furnished under section thirteen (13) subsection one (1) of this Act. (As amended by Sec. 2, S.F. 179, 60th G. A.)

(f) Providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each brand, class or variety of liquors kept for sale under this chapter by the commission. Each licensee holding a liquor control license and dispensing liquors at retail shall establish prices based on serving one (1) ounce of intoxicating liquor per sale. Such price lists shall be filed with the commission and are subject to change by the licensee upon filing a new price list with the commission. (As amended by Sec. 5, S.F. 437, 60th G. A.)

(g) Prescribing what official seals or labels should be attached to the packages of liquor sold under this chapter including the various kinds of official seals or labels for the different classes or varieties or brands of liquors.

(h) Prescribing the kind, quantity, and character of liquors which may be purchased or sold including the quantity which may be purchased or sold at any one time or within any specified period of time. (As amended by sub-section 2, Sec. 2, S.F. 179, 60th G. A.)

(i) Prescribing the duties of employees authorized to issue permits or licenses under this chapter.

(j) Prescribing, subject to this chapter, the days and hours during which state liquor stores and special distributors shall be kept open for the purpose of the sale or dispensing of liquors.

(k) Prescribing, subject to this chapter, the records of sales to holders of special permits and licenses and for the report of the same to the commission. (As amended by sub-sec. 3, Sec. 2, S.F. 179, 60th G. A.)

(l) Prescribing the place and the manner in which liquor may be lawfully kept or stored by the licensed manufacturer under this chapter.

(m) Prescribing the time, manner, means, and method by which distillers, brewers, vendors, or others having permission under this chapter may deliver or transport liquors and prescribing the

time, manner, means, and methods by which liquor under this chapter may be lawfully conveyed, carried, or transported.

(n) Prescribing, subject to the provisions of this chapter, the conditions and qualifications necessary for the obtaining of licenses and the books and records to be kept and the remittance to be made by those holding licenses and determining the number of persons, firms, or corporations who shall be entitled to licenses and providing for the inspection of the records of all such licenses.

(o) Prescribing the conditions and qualifications necessary for the obtaining of permits under this chapter.

(p) Prescribing the purchase of liquor and furnishing liquor at state liquor stores and special distributors under this chapter.

3. The Liquor Control Commission shall prepare, print, and furnish all forms required under this chapter.

123.18 State liquor stores. The commission shall establish and maintain in any city or incorporated town, which the commission may deem advisable, a state liquor store or stores or special distributors, as provided for in section 123.19, for storage and sale of liquor in accordance with the provisions of this chapter and the regulations made thereunder. The commission may, from time to time, as determined by it, fix the prices of the different classes, varieties, or brands of liquor to be sold.

123.19. Special distributors.

1. In cities and towns where the establishment of a state liquor store, under the provisions of this chapter, does not seem advisable, the commission may, select a special distributor, who shall have been in business in and a resident of such city or town not less than two years immediately prior to such appointment, to sell alcoholic liquors for consumption off the premises; provided, however, that in no case such special distributor shall be the holder of a class "B" permit to sell beer as provided in chapter 124, nor shall such special distributor be granted such beer permit while being such distributor.

2. Special distributors shall be paid a sum to be fixed by the commission, but in no event shall this sum be in excess of nine hundred dollars per annum. All alcoholic liquors sold by such distributors shall be sold in the original package at the price fixed by the Commission, without profit to

the distributor, and in accordance with the rules and regulations of the Commission.

3. At any time, if in the judgment of the Commission it shall appear advisable, the commission may establish a state liquor store in such city or town to replace the special distributor.

4. If, after a state liquor store has been in operation in any city or town, such store should show a loss to the state, the commission may discontinue such store and select a special distributor in accordance with the provisions of this chapter.

5. No special distributor shall be selected in any city or town where there is a state liquor store in operation.

123.20. Vendors. In the conduct and management of state liquor stores the commission is empowered to employ a person who shall be known as a "vendor" who shall, subject to the directions of the commission, observe all provisions of this chapter and the rules and regulations of the commission.

123.21. Qualifications of employees. The Liquor Control Commission shall prescribe from time to time by rule or regulation the qualifications to be possessed by persons desiring employment in state liquor stores or establishments.

123.22. Sales regulated.

1. A vendor or special distributor may not sell to any person nor may any person required by law to have a permit purchase alcoholic liquors from such vendor unless the person be the holder of a permit or liquor control license entitling such person to purchase liquors in conformity with the provisions of this chapter and the regulations established by the commission (As amended by Sec. 3, S.F. 179 and Sec. 6, S.F. 437, 60th G. A.)

2. Before the vendor or special distributor shall sell or deliver to any permit holder any alcoholic liquors he shall:

(a) and (b)—Repealed by Sec. 3, S.F. 179, 60th G. A.

(c) have demanded and received the purchase price of such liquor in cash.

Every holder of a liquor control license shall keep a daily record of the gross receipts of his business and shall include in such record the number, brand and types of bottles emptied, during the course of the day's business. Each bottle emptied, except beer bottles, shall be broken

immediately by the licensee or his agent into a container provided for that purpose. The records herein required and the premises of the licensee shall be open to the agents of the enforcement division of the Iowa Liquor Control Commission during normal business hours of the licensee. (Above paragraph added by Sec. 6, S.F. 437 - 60th G. A.)

123.23. Consumption on premises. No vendor, officer, clerk, servant, agent, or employee of the commission employed in any state liquor store, state owned warehouse or special distributor, shall allow any alcoholic liquor to be consumed on the premises of such state warehouse, store, or special distributor nor shall any person consume any liquor on such premises.

123.24. Restrictions on sales — seals — labeling. No alcoholic liquor shall be sold by the commission to any purchaser except in sealed container with the official seal or label prescribed by the commission and no such container shall be opened upon the premises of any state warehouse, store or special distributor. Such seal or label shall bear the seal of the commission and shall certify the quality, age, and contents of the bottle or package on which it is affixed and must be attached and sealed to all liquors sold in the state. Possession of alcoholic liquors bought or sold in the state which do not carry such label or seal shall be considered a violation of this chapter. No alcoholic liquor shall be labeled "whiskey" unless it is a distillate of fermented mash or grain or mixture of grains. Spirits, the alcoholic content of which is distilled of any other substance, must be labeled "imitation". No spirits shall contain any substance, compound, or ingredient which is injurious to health or deleterious for human consumption. (As amended by Sec. 7, S.F. 437, 60th G. A.)

123.25. Sales prohibited. It shall be unlawful to transact the sale or delivery of any liquor in, on, or from the premises of any state liquor store, special distributor, or warehouse.

1. After the closing hour as established by the Commission.

2. On any legal holiday.

3. On any Sunday.

4. On any national or state election day.

5. On any municipal election day held in the municipality in which such store, warehouse, or special distributor may be situated.

6. During such other periods or days as may be designated by the Commission.

123.26. Transportation permitted. It shall be lawful to transport, carry, or convey liquors as defined by this chapter from the place of purchase by the commission to any state warehouse, store, special distributor or depot established by the commission for the purpose of this chapter or from one such place to another and when so permitted by this chapter the regulations made thereunder and in accordance therewith, it shall be lawful for any common carrier, or other person to transport, carry, or convey liquor sold by a vendor or a special distributor from a state warehouse, store or depot to any place to which the same may be lawfully delivered under this chapter and the regulations established by the commission; provided, however, that no common carrier or other person shall break, open, allow to be broken or opened any container or package containing alcoholic liquor or to use or drink or allow to be used or drunk any liquor therefrom while in the process of being transported or conveyed; provided, however, that nothing in this chapter shall effect the right of any permit or liquor control license holder to purchase, possess, or transport alcoholic liquors as defined by this chapter and subject to the provisions of this chapter and the regulations made thereunder. (As amended by Sec. 8, S.F. 437, 60th G. A.)

123.27. Permits. Special permits shall be issued as herein provided. (As amended by Sec. 4, S.F. 179, 60th G. A.)

1. (a) and (b)—Repealed by Sec. 4, S.F. 179, 60th G. A.

2. Upon application being made, in the form and manner prescribed by the commission, to the commission, or to any agent authorized by the commission to issue permits accompanied by payment of the prescribed fee, and upon the commission or such authorized agent being satisfied that the applicant has complied with the rules and regulations established by the commission for the issuance of such a permit for the purchase, possession and/or transportation of alcoholic liquors under this chapter, the commission or such authorized agent shall issue to the applicant a permit of the class applied for as follows:

(a) Repealed by Sec. 4, S.F. 179, 60th G. A.

(b) A "special permit" in form as prescribed by the commission and subject to its issuance and/or use to such rules and regulations as the

commission may adopt, may be issued as provided in this section, notwithstanding the other provisions of this chapter as follows:

(1) To a physician, pharmacist, dentist, or veterinarian, which will entitle the holder to purchase liquor from the state liquor stores or special distributors for use medicinally and in compounding prescriptions and to sell the same for use medicinally in the compound prescription only upon the prescription of a licensed physician or surgeon, and to purchase liquor from the state liquor stores or special distributors for use in manufacturing or compounding lotions, compounds, and other like commodities not susceptible for beverage purpose, and to sell the same for public use.

(2) To a soldiers home, sanitarium, hospital, college, or home for the aged which will entitle the holder to purchase liquor from the state liquor stores or special distributors for use for medicinal, laboratory and scientific purposes only.

(c) Notwithstanding any of the provisions of this chapter, patent and proprietary medicines, tinctures, food products, extracts, toilet articles and perfumes, and other like commodities, none of which are susceptible for use as a beverage, but which require as one of their ingredients alcohol or vinous liquors may be manufactured and sold within this state, provided a special permit so to do is first obtained, as in this subsection provided.

Any person, firm, or corporation desiring such permit shall file with the liquor commission the affidavit of such person, member of the firm, secretary or other managing officer of the corporation, as the case may be, stating therein the following facts;

(1) The name, place of business, and postoffice address of the person, firm, or corporation desiring such permit.

(2) The business in which said person, firm, or corporation is engaged and the articles manufactured by them which require in their manufacture the use of alcohol or vinous liquors.

(3) That neither the applicant, nor any member of the firm, no officer of the corporation has been convicted of any violation of the laws of this state with reference to the sale of intoxicating liquors within three years last past prior to the date of said affidavit.

If the liquor commission is satisfied that the facts stated in said affidavit are true and that the applicant is a person fit and proper to be

entrusted with the permit applied for, the same shall be issued upon the filing by the applicant of a bond in the sum of two thousand dollars, with approved sureties conditioned that the applicant will faithfully observe the provisions of this chapter and the rules and regulations of the commission.

Such special permit when so issued shall entitle the holder thereof to import into the state, or purchase from licensed distillers within the state or from the commission, alcohol or vinous liquors for use in manufacture, in accordance with the terms of said permit, and to sell the product of such manufacture, regardless of any of the other provisions of this chapter with respect to purchase and sale of alcohol or vinous liquors.

It shall be the duty of every manufacturer holding such special permit under the provisions of this subsection whenever such manufacturer shall purchase any alcoholic liquor from any person, firm or corporation, other than the liquor commission, immediately upon receipt thereof to file with the liquor commission a report of the receipt of such liquor in accordance with the rules and regulations as they may be established by the liquor commission.

3. Nothing in this chapter shall prohibit the legitimate sale of patent and proprietary medicines, tinctures, food products, extracts, toilet articles and perfumes, and other like commodities, none of which are generally classified or used as a beverage but which require as one of their ingredients alcoholic or vinous liquors, through the ordinary retail or wholesale channels.

The following sections added to 123.27 by Sec. 10, S.F. 437, 60th G. A.:

4. Upon posting bond in the penal sum of five thousand (5,000) dollars with surety and conditions prescribed by the commission, which bond shall be conditioned upon the payment of all taxes payable to the state under the provisions of this chapter and compliance with all provisions of this title, liquor control licenses may be issued to any person who (or whose officers and stockholders, in the case of a club or corporation, or whose partners, in the case of a partnership) is of good moral character, is the holder of a retail beer permit as defined in chapter one hundred twenty-four (124) of the Code, has not been convicted of a felony, does not possess a federal gambling stamp, is a citizen of the United States and a resident of the State of Iowa for the past two (2) years or licensed to do business in the

case of a corporation in the State of Iowa for the last two (2) years, is not chargeable directly or indirectly with the administration or enforcement of the alcoholic beverages laws of the State of Iowa, and is, in the judgement of the commission, of such financial standing and good reputation as will satisfy the commission that the licensee will comply with the law and the regulations of the commission. As a further condition for issuance of a liquor control license, the licensee must give consent for members of the fire, police and health departments and the building inspector of cities and towns; the county sheriff, deputy sheriff and state agents, and county health officer to enter upon the premises without a warrant to inspect for violations of the provisions of this chapter as amended, the provisions of title six (VI) of the Code, or the provisions of ordinances and regulations that cities and towns and boards of supervisors may adopt.

5. No liquor control license shall be issued for premises which do not conform to all laws, ordinances and resolutions, health and fire regulations applicable thereto, or, except in the case of a hotel or motel, have any interior access to residential or sleeping quarters. (As amended by Sec. 2, S.F. 485, 60th G. A.)

6. Liquor control licenses issued under this chapter shall be of the following classes:

a. Class "A". A class "A" liquor control license may be issued to a club and shall authorize the holder thereof to purchase spirits and wine from the commission only, and to sell alcoholic beverages so purchased to bona fide members and their guests by the individual drink for consumption on the premises only.

b. Class "B". A class "B" liquor control license may be issued to a hotel or motel as herein defined and shall authorize the holder thereof to purchase spirits and wine from the commission only, and to sell alcoholic beverages so purchased to patrons by the individual drink for consumption on the premises only. Each such license shall be effective throughout the premises described in the application therefore, but a duplicate of such license shall be posted in each room wherein such beverages are dispensed.

c. Class "C". A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individual or individuals who actually own the entire business and shall authorize the holder or holders thereof to purchase spirits and wine from the commission

only, and to sell alcoholic beverages so purchased to patrons by the individual drink for consumption on the premises only.

d. Class "D". A class "D" liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five (25) persons or more operating in inland or boundary waters, and shall authorize the holder thereof to sell or furnish alcoholic beverages to passengers for consumption only on trains, watercraft as described herein, or aircraft, respectively. Each such license shall be good throughout the state as a state license. Only one (1) such license shall be required for all trains or aircraft operated in the state by the licensee, but a duplicate of such license issued shall be posted in each railroad car or aircraft in which such beverages are sold.

Such licensee shall keep a record of all alcoholic beverages sold or furnished in the State of Iowa, and on or before the last day of each month shall render a report to the commission showing the quantities of the various kinds of alcoholic beverages so sold or furnished during the preceding month, which report shall be accompanied by payment of appropriate taxes owing.

7. An application for class "A", class "B", or class "C" liquor control license, accompanied by the required fee and bond, shall be filed with the appropriate city or town council if the premises proposed to be licensed are located within the corporate limits of a city or town, or with the board of supervisors if the premises proposed to be licensed are located outside the corporate limits of a city or town. Application for a class "D" liquor control license, accompanied by the required fee and bond, shall be filed with the commission, which shall proceed in the same manner as in the case of an application approved by local authorities.

a. Action by local authorities. If the city or town council, or county board of supervisors, as the case may be, approves the issuance of a license, it shall endorse its approval on the application and forward same along with the fee and bond to the commission; or if it disapproves issuance of a license, it shall endorse its disapproval on the application and forward same along with the fee and bond to the commission. Upon the initial issuance of or denial of liquor control licenses, the fact that local authorities determine that no liquor control licenses shall be issued

under this chapter as amended shall not be held to be arbitrary, capricious or without reasonable cause.

Before the issuance, renewal, or denial of liquor control licenses by local authorities, the board or council may conduct a referendum on the question of whether liquor control licenses shall be approved for the city, town, or county in question. Said referendum shall be conducted in the same manner that special elections are conducted. The purpose of such referendum shall be solely to assist the board or council members in determining public sentiment toward liquor by the drink sales, and shall not be binding on the council or board members in determining whether or not to approve the issuance or renewal of liquor control licenses.

b. Action by the commission. Upon receipt of an application having been disapproved, the commission shall disapprove the application and so notify the applicant by registered mail. Upon receipt of an application having been approved, the commission shall make such investigation as it deems necessary and it may require the applicant to appear before it and be examined under oath regarding any matters pertinent to the application, in which case a record shall be made of all testimony or evidence and the same shall become a part of the application. If the application is approved, an appropriate liquor control license shall be issued. If the application is disapproved, the applicant and the appropriate city or town council, or county board of supervisors, shall be so notified in writing, and the fee and bond shall be returned to the applicant.

c. Appeal to commission. Any applicant for a liquor control license may appeal to the commission from its disapproval of an application for a license; or, in lieu of such appeal, the commission may afford the applicant a hearing through issuance of a notice to the applicant of contemplated disapproval of a license. If, upon such appeal or hearing, the commission shall determine that the city or town council, or county board of supervisors, acted arbitrarily, capriciously, or without reasonable cause in disapproving the application, or that (where the city or town council, or county board of supervisors approved the application) the commission's own disapproval or contemplated disapproval should be reversed, it may issue a license.

d. Appeal to courts. Any applicant who feels aggrieved by a decision of the commission or issuing authority disapproving suspending, or

revoking issuance of a license may, provided he has exercised his rights of appeal to the commission as hereinabove provided, appeal from said decision within ten (10) days to the district court of the county wherein the premises covered by the applications are situated.

Where the commission on an appeal by an applicant finds that a city or town council or county board of supervisors acted arbitrarily, capriciously, or without reasonable cause in disapproving an application and the commission issues a license, the council or board may appeal from such decision of the commission within ten (10) days to the district court of the county wherein the premises covered by the application are situated.

e. If a petition shall be signed by the electors of any county in such number as shall equal twenty-five percent of the votes cast in such county for governor at the last general election, which shall request that the question of licensing the sale of alcoholic beverages (exceeding four percent by weight) by the drink be submitted to the electors thereof at a special election to be called for that purpose, as hereinafter provided, and shall be filed with the board of supervisors, the board shall cause such election to be held and shall cause to be published once each week for four (4) weeks in succession in the official newspaper in such county a notice of such special election to be held not less than fifteen (15) nor more than thirty (30) days from the date of the last publication. (As amended by Sec. 6, S.F. 485, 60th G. A.) The notice shall state the proposition to be submitted to the electors at such special election. Each sheet of the petition shall contain not more than thirty (30) names of electors with their personal signatures, addresses, and the date of signing. If residing within a city or town where the electors are required to be registered, the signature shall be the same as it appears upon the registration records. At the top of each sheet shall be stated the proposition to be submitted. No signature of such petition shall be valid unless appended to the petition within the last ninety (90) days prior to the date of filing the petition. At the bottom of each sheet of such petition shall be the affidavit of the person who circulated same, stating that the signatures on the petition were made in his presence, that he has reasonable cause to believe that they are qualified electors of the particular county, and that they are the persons they represent themselves to be. Whoever signs any such petition, knowing that he is not a qualified elector in the

county where such petition is made, or who aids or abets any other person in doing any of the acts mentioned, or whoever bribes, gives or pays any money or thing of value to any person directly or indirectly, to induce him to sign such petition, shall upon conviction thereof be punished by a fine of not exceeding three hundred dollars (\$300.00) or by imprisonment in the county jail not exceeding ninety (90) days or by both such fine and imprisonment, in the discretion of the court.

Upon the ballot the proposition shall be stated as follows:

"Shall the retail sale of alcoholic beverages (exceeding four percent by weight) by the drink be prohibited in (here insert the name of the county)?"

☐ YES

☐ NO

The provisions of the statutes of this state relating to election of officers, voting places, election apparatus and blanks, preparation and form of ballots, information to voters, delivery of ballots, calling of elections, conduct of elections, manner of voting, counting of votes, records and certificates of election, and recount of votes, so far as applicable, shall apply to voting on the proposition under the provisions of this Act. If a majority of the ballots cast are "YES", the board shall not issue any new licenses. However, if at the time of such election there are liquor control licenses in effect in the county, they shall not be revoked except for cause for a period of three (3) years. No new election shall be held for a period of four (4) years. This election shall not be held within thirty (30) days of any general election.

Except for filing of the petition and the conduct of elections, whenever the word "board" appears in this paragraph it shall include the county board of supervisors and city and town councils. (As amended by Sec. 3, S.F. 485, 60th G. A.)

8. Verified applications for the original issuance or the renewal of liquor control licenses shall be filed at such time and in such number of copies as the commission shall by regulations prescribe, on forms prescribed by the commission, and shall set forth under oath the following information:

a. The name and address of the applicant.

b. The precise location of the premises for which a license is sought.

c. The names and addresses of all persons (in the case of a corporation, the officers, directors,

and persons owning or controlling ten (10) percent or more of the capital stock thereof) having a financial interest, by way of loan, ownership, or otherwise, in the business or the profits thereof.

d. When required by the commission, a sketch or drawing of the premises proposed to be licensed and in such form and containing such information as the commission may require.

e. A statement whether any person specified in (c) above has ever been convicted of any offense against the laws of the United States, or any state or territory thereof, or any political sub-division of any such state or territory.

A statement whether the applicant or any other person specified in paragraph (c) of subsection eight (8) possesses a federal gambling stamp.

f. Such other information as the commission shall require.

9. There shall be no limit upon the number of liquor control licenses which may be issued by a city or town council or board of supervisors, except that not more than one Class "C" liquor control license may be issued to each qualified applicant. (As amended by Sec. 3, S.F. 485, 60th G. A.)

10. All liquor control licenses issued as provided for herein, unless sooner revoked, shall expire on the anniversary date of each year.

11. Every permit holder licensed under this chapter shall fill out in duplicate, on forms furnished by the commission, the amount and kinds of liquors purchased, and shall retain one (1) copy in his establishment for a period of two (2) years, and the manager of the state liquor store at which the purchase was made shall monthly forward the other copy to the commission.

12. It shall be unlawful for any law-enforcement officer or other official to accept or solicit donations, gratuities, advertising, gifts or other favors, directly or indirectly, from any licensee hereunder. Anyone violating this section shall be guilty of a misdemeanor and shall be subject to a fine of not less than one hundred (100) dollars nor more than one thousand (1,000) dollars, or shall be subject to a jail term of not less than thirty (30) days, nor more than six (6) months, or to both such fine and imprisonment.

123.28. Fees. For a "special permit" under paragraph (b) of subsection 2 of section 123.27

the fee shall be three dollars per year (As amended by Sec. 6, S.F. 179, 60th G. A.)

The following added to chapter 123.28 by S.F. 437, Sec. 11, 60th G. A.:

There shall be paid annually to the commission for a liquor control license the following fees:

1. Class "A" liquor control licenses, the sum of five hundred (500) dollars, except that for class "A" licenses in towns of less than two thousand (2,000) population, (as amended by Sec. 4, S.F. 485, 60 G. A.), and for clubs of less than two hundred fifty (250) members, the license fee shall be three hundred (300) dollars; provided however, that the fee shall be one hundred (100) dollars for any club which is a post, branch, or chapter of a veterans' organization chartered by the Congress of the United States, if such club does not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week;

2. Class "B" liquor control licenses, the sum as follows:

a. Hotels or motels located within the corporate limits of cities of ten thousand (10,000) population and over, one thousand (1,000) dollars;

b. Hotels and motels located within the corporate limits of cities of over three thousand (3,000) and less than ten thousand (10,000) population, seven hundred and fifty (750) dollars;

c. Hotels and motels located within the corporate limits of cities or towns of three thousand (3,000) population and less, five hundred (500) dollars; (as amended by Sec. 4, S.F. 485, 60th G. A.)

d. Hotels and motels located outside the corporate limits of any city or town, one thousand (1,000) dollars.

3. Class "C" liquor control licenses, the sum as follows:

a. Commercial establishments located within the corporate limits of cities of ten thousand (10,000) population and over, one thousand (1,000) dollars;

b. Commercial establishments located within the corporate limits of cities or towns of over fifteen hundred (1,500) and less than ten thousand (10,000) population, seven hundred fifty (750) dollars;

c. Commercial establishments located within the corporate limits of towns of fifteen hundred (1,500) population or less, five hundred (500) dollars;

d. Commercial establishments located outside the corporate limits of any city or town, one thousand (1,000) dollars. (As amended by Sec. 5, S.F. 485, 60th G. A.)

4. Class "D" liquor control licenses, the sum of two hundred fifty (250) dollars.

The commission shall credit all fees to the liquor control act fund and shall remit to the respective city or town council, or county board of supervisors, as the case may be, a sum equal to fifty (50) percent of the fees collected for each class "A", class "B", or class "C" license covering premises located within their respective jurisdiction.

123.29. Nature of permit. A permit or liquor control license shall be a purely personal privilege and shall expire on the anniversary date following the date of issuance and shall be revocable for cause. (As amended by Sec. 12, S.F. 437 and Sec. 6, S.F. 485, 60th G. A.) It shall not constitute property nor shall it be subject to attachment and execution nor shall it be alienable nor assignable and in any case it shall cease upon the death of the permittee or licensee. (As amended by S.F. 437, Sec. 12, 60th G. A.) Every permit shall be issued in the name of the applicant and no person holding a permit shall allow any other person to use the permit.

The following paragraph added by Sec. 12, S.F. 437, 60th G. A.:

Any liquor control licensee or his executor, administrator or any person duly appointed by the court to take charge of and administer the property or assets of such permittee for the benefit of his creditors may voluntarily surrender any permit, issued under this chapter, to the issuing authority and when so surrendered the issuing authority shall refund to the person so surrendering the permit a proportionate amount of the permit fee paid for such permit as follows: if surrendered during the first three (3) months of the period for which said permit was issued the refund shall be three-fourths ($\frac{3}{4}$) of the amount of the permit fee; if surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half ($\frac{1}{2}$) of the amount of the permit fee; if surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth ($\frac{1}{4}$) of the amount of the

permit fee. No refund shall be made, however, for any permit surrendered more than nine (9) months after issuance. No refund shall be made to any permit holder upon the surrender of his permit, if there is at the time of said surrender a complaint filed with the board or council charging him with a violation of the provisions of this chapter. If upon hearing on any such complaint, so filed, his permit be not revoked, then said permit holder shall be eligible, upon surrender of his license, to receive a refund as herein provided. But in event his license is revoked upon such hearing then he shall not be eligible for the refund of any portion of his permit fee.

The issuing authority may in its discretion authorize a licensee to remove the license from one location to another within the same incorporated city or town, or within a county outside the corporate limits of a city or town, provided that the premises to which the transfer is to be made would have been eligible for a license in the first instance and such transfer will not result in any violation of any provision of law.

Sec. 123.30—Repealed by Sec. 5, S.F. 179, 60th G. A.

Sec. 123.31—Repealed by Sec. 5, S.F. 179, 60th G. A.

Sec. 123.32. **Suspension or cancellation of permit.**—Repealed by Sec. 5, S.F. 179, 60th G. A.

The following added to Sec. 123.32 by Sec. 13, S.F. 437, 60th G. A.:

Any liquor control license issued under this chapter may, after notice in writing to the license holder and reasonable opportunity for hearing, be suspended or canceled by the issuing authority or the commission for any of the following causes:

a. Misrepresentation of any material fact in the application for such license, or

b. Violation of any of the provisions of this chapter as amended or regulations of the commission, or

c. Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" license, which change was not previously reported to the commission and approved by it, or

d. An event which would have resulted in disqualification from receiving such license when originally issued, or

e. Any sale, hypothecation, or transfer of such license.

f. Any liquor control licensee whose license is revoked or canceled for cause shall not thereafter be permitted to hold a liquor control license in the state of Iowa. The spouse and business associates of a person whose license has been canceled or revoked for cause shall not be issued a liquor control license, and no liquor control license shall be issued which covers any business in which such person has a financial interest.

In the event a license is revoked for cause the premises covered by a revoked license shall not be relicensed for one (1) year.

Sec. 123.33—Repealed by Sec. 5, S.F. 179, 60th G. A.

Sec. 123.34—Repealed by Sec. 5, S.F. 179, 60th G. A.

Sec. 123.35—Repealed by Sec. 5, S.F. 179, 60th G. A.

Sec. 123.36. **Manufacturer's license.** Upon application in the prescribed form and accompanied by a fee of two hundred fifty dollars, the commission may in accordance with this chapter, and in accordance with the regulations, made thereunder, grant a license, good for a period of one year after date of issuance to a manufacturer which shall allow the manufacture, storage and wholesale disposition and sale of alcoholic liquors and wines to the commission and to customers outside of the state.

123.37. **Wholesaler's license.** Upon application in the prescribed form and accompanied by a fee of one hundred dollars and subject to the provisions of this chapter and the rules and regulations of the commission, the commission shall grant a license good for a period of one year after date of issuance, to a wholesaler, which shall allow the wholesaler to purchase alcoholic liquor from distillers either within or without the state for the purpose of selling to the commission and customers of such wholesaler engaged in the sale of alcoholic liquor and wines at a retail outside of the state.

123.38. **Conditions—bond.** As a condition precedent to the approval and granting of any license to the manufacturer or wholesaler applying therefor, there shall be filed with the commission a statement under oath that the applicant is a bona fide manufacturer or wholesaler of alcoholic liquors, and that the said applicant will faithfully observe and comply with all rules and regulations of the commission then existing, or thereafter

made, and that he will in all respects comply with the provisions of this chapter; together with a bond of five thousand dollars for a manufacturer and one thousand dollars for a wholesaler with a surety to be approved by the commission; said bond to be in favor of the state of Iowa for the benefit of the state in case of any violation of this chapter.

123.39. Gift of liquors prohibited. No manufacturer or wholesaler shall give away any alcoholic liquor of any kind or description at any time in connection with his business except for testing or sampling purposes only.

123.40. Interest in liquor business. 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 shall have any interest whatsoever in dealing in or in the manufacture of alcoholic liquor nor receive any kind of profit whatsoever in the purchases or sale by the persons authorized to purchase and sell alcoholic liquor except that no such provisions shall prevent any such commissioner or employee from purchasing and keeping in his possession for the personal use of himself, or his family, or his guests any liquors which may be lawfully purchased.

The following paragraph added to Sec. 123.40 by Sec. 14, S.F. 437, 60th G. A.:

No person engaged in the business of manufacturing, bottling, or wholesaling any alcoholic beverages nor any jobber nor any agent of such person shall directly or indirectly supply, furnish, give or pay for any furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of any alcoholic beverages or food within the place of business of another licensee authorized under the provisions of this chapter to sell at retail; nor shall he directly or indirectly extend any credit for any alcoholic beverages or pay for any such license, nor directly or indirectly be interested in the ownership, conduct or operation of the business of another licensee authorized under the provisions of this chapter to sell at retail. Any licensee who shall permit or assent or be a party in any way to any such violation or infringement of the provisions of this chapter shall be deemed guilty of a violation of the provisions of this chapter. (As amended by Sec. 7, S.F. 485, 60th G. A.)

123.41. Cash sales. No vendor of any state liquor store or special distributor shall sell any alcoholic liquor to any person except for cash. (As amended by Sec. 7, S.F. 179, 60th G. A.)

123.42. Consumption in public places—intoxication. It is hereby made unlawful for any person to use or consume any alcoholic liquors upon the public streets or highways, or in any public place, except premises covered by a liquor control license, and no person shall be intoxicated nor simulate intoxication in a public place; and any person violating any provisions of this section shall be fined not to exceed one hundred dollars or sentenced not to exceed thirty days in the county jail. (As amended by Sec. 15, S.F. 437 - 60th G. A.)

123.43. Minors. Except in the case of liquor given or dispensed to a person under the age of twenty-one years by parent or guardian for beverage or medicinal purposes or as administered to him by either the physician or dentist for medicinal purposes no person shall sell, give, or otherwise supply liquor to any such person under the age of twenty-one years, or knowingly permit any person under that age to consume alcoholic liquors.

123.44. Interdicted person. Except in the case of liquor supplied to an interdicted person upon the prescription of a physician or administered by either a physician or dentist for medicinal purposes no person shall procure for or sell or give to any interdicted person any alcoholic liquors, nor directly or indirectly, assist in procuring or supplying any alcoholic liquors to an interdicted person.

123.45. Repealed by Sec. 8, S.F. 179, 60th G. A.

123.46. Miscellaneous prohibitions.

1. Repealed - Sec. 9, S.F. 179 - 60th G. A.

2. Repealed - Sec. 9, S.F. 179 - 60th G. A.

3. No person shall sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquors.

(The following added to Sec. 123.46 by Sec. 16, S.F. 437 - 60th G. A.)

4. No person or club holding a liquor control license under this chapter, his agents or employees, shall:

(a) Knowingly permit any gaming, gambling, solicitation for immoral purposes, immoral or disorderly conduct on the licensed premises, or

(b) Sell or dispense any alcoholic beverage on the licensed premises or permit the consumption thereon between the hours of one (1) a. m. and seven (7) a. m. on any week day, and between the hours of twelve (12) o'clock midnight on Satur-

day and seven (7) a. m. on the following Monday, or on any general, special or primary election day during the hours that polls are open, or during such other periods or days as may be designated by the commission, or

(c) Sell alcoholic beverages to any person on credit, except that this provision shall not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests, or with a bona fide credit card, or

(d) Keep on the licensed premises any spirits or wine in any container except the original package purchased from the commission, except mixed drinks or cocktails mixed on the premises for immediate consumption, provided that this shall not apply to common carriers holding a class 'D' liquor control license, or

(e) Reuse for the packaging of any spirits or wine any bottle or other container which has been used for the packaging of alcoholic beverages or possess any such bottle or container, or in any manner alter or increase, by the addition thereto of any substance, any portion of the original contents remaining in such bottle or container in which any portion of the original contents has been so altered or increased, or

(f) Employ any person under the age of twenty-one (21) years in the handling of liquor on the premises where such liquor is sold, or

(g) Allow any person other than the license holder or his employees to use or keep on the licensed premises any spirits or wine in any bottle or other container which is designed for the transporting of alcoholic beverages, provided that this shall not apply to the lodging quarters of a class "B" liquor control license, or to common carriers holding a class "D" liquor control license.

(h) Knowingly sell, give or otherwise supply any alcoholic beverage or beer to any person under the age of twenty-one (21) years or knowingly permit any person under the age of twenty-one (21) years to consume any alcoholic beverage or beer.

5. No person under the age of twenty-one (21) years shall misrepresent his or her age for the purpose of purchasing or attempting to purchase any alcoholic beverage from any licensee. If any person under the age of twenty-one (21) years shall misrepresent his or her age, and the licensee having established that he made reasonable inquiry to determine whether such prospective purchaser is over the age of twenty-one (21) years, such licensee shall not be guilty of selling liquor to minors.

Whoever violates any of the provisions of this section shall be subject to a fine of not to exceed one hundred (100) dollars or to imprisonment for not more than thirty (30) days in the county jail or to both such fine and imprisonment.

"The conviction of any liquor control license holder for the violation of any of the provisions of this section shall be grounds for the suspension or revocation of the license by the commission or the issuing authority."

"However, if any liquor control license holder shall be convicted of any violation of paragraphs (a), (d), (e), or (h) of sub-section 4 of this section, the liquor control license shall automatically be revoked and shall immediately be surrendered by the holder, and the bond of the license holder shall be forfeited to the commission." (The following paragraph added by Sec. 17, S.F. 437 - 60th G. A.)

Notwithstanding the provisions of section one hundred twenty-four point thirty-one (124.31) of the Code, a person who is the holder of a liquor control license may keep, sell, and allow alcoholic liquor to be consumed on the premises covered by the liquor control license.

123.47. Advertisements. Except as permitted by federal statute and regulations, there shall be no public advertisement or advertising of alcoholic liquors in any manner or form within the state.

1. No person shall publish, exhibit, or display or permit to be displayed any other advertisement or form of advertisement or announcement, publication or price list of, or concerning any alcoholic liquors, or where, or from whom the same may be purchased or obtained, unless permitted so to do by the regulations enacted by the commission and then only in strict accordance with such regulations.

2. This section of the chapter shall not apply, however:

(a) To the liquor control commission.

(b) To the correspondence, or telegrams, or general communications of the commission, or its agents, servants, and employees.

(c) To the receipt or transmission of a telegram or telegraphic copy in the ordinary course of the business of such agents, servants, or employees of any telegraph company.

123.48. Prohibited sale, etc. No person not expressly authorized by this chapter to deal in alcoholic liquor shall within the state keep for sale, or offer for sale anything which is either labeled or branded with the name of any kind of

alcoholic liquor whether the same contains any alcoholic liquor or not.

123.49. (Repealed by Sec. 10, S.F. 179 - 60th G. A.)

123.50. **Liquor control fund.** For the purpose of enabling the commission to carry out the provisions of this chapter, there is hereby appropriated from the funds of the state treasury not otherwise appropriated the sum of five hundred thousand dollars and the state comptroller shall set aside from the appropriation the amount necessary to be used by the commission for the purchase of alcoholic liquors and payment of such other expenses as may be necessary to establish and operate state liquor stores and special distributors in accordance with the provisions of this chapter and to perform such other duties as are imposed upon it by this chapter.

2. All money hereafter received by the commission, including any money received under the appropriation herein made, shall constitute what shall hereafter be known as the liquor control act fund, whenever said liquor control act fund shall have a balance in excess of one million five hundred thousand dollars; the comptroller shall transfer such excess to the general fund of the state treasury, which amount shall be used to reduce the general state tax levy against real estate.

3. The state treasurer shall semi-annually distribute, a sum of money equal to five percent of the gross amount of sales made by the state liquor stores, to the cities and towns of the state in the manner hereinafter provided. Such amount shall be distributed to the cities and towns of the state in proportion to the population that each incorporated city or town bears to the total population of all incorporated cities and towns of the state as computed by the latest federal census. Such apportionment shall be made semi-annually as of July 1 and January 1 of each year. Warrants for the same shall be issued by the state comptroller upon certification of the state treasurer and mailed to the city clerk of each incorporated city and town of the state and shall be made payable to such incorporated city or town and shall be subject to expenditure under the direction of the city council or other governing bodies of such incorporated city or town for any lawful municipal purpose.

4. In any case where a city or town has been incorporated since the last federal census, the mayor and council shall certify to the state treas-

urer the actual population of such incorporated city or town as of date of incorporation and its apportionment of funds under this section shall be based upon such certification until the next federal census enumeration. Any community which has dissolved its corporation shall not receive any apportionment of funds under this section for any period after said corporation has been dissolved.

5. The State Treasurer shall credit to a military service tax fund hereby created a sum of money equal to five percent (5%) of the gross amount of sales made by the state liquor stores in the cities and towns of the state. Any amount thus credited shall be allocated to the various taxing districts of the state as reimbursement for losses of revenue due to exemption or remission of property taxes which would be imposed upon property upon which soldiers' exemptions or soldier's tax credits are provided under such terms as the general assembly may provide.

123.51. (Repealed by Sec. 10, S.F. 179 - 60th G. A.)

123.52. **Drawing appropriation.** The appropriation hereby made shall be paid by the Treasurer of the State upon the orders of the commission, in such amounts and at such times as in the discretion of the commission, may be necessary to carry on operations in accordance with the terms of this chapter.

123.53. **Annual report.** It shall be the duty of the commission to make a report to the governor of the state, ending with June 30 of each year, showing fully the results of the operations of the commission covering the period since the last previous report, and which report shall show:

1. Amount of profit or loss, if any, on account of state liquor stores and special distributors.
2. Number of such liquor stores opened, the number closed, and the number thereof operating on last day included in report.
3. Number of such special distributors appointed and number of such appointments in force on last day shown in report.
4. Amount of fees received from such stores and amount of fees received from such distributors separately and in gross.
5. The amount of said liquor control act fund then in the hands of the commission and also in the hands of the state treasurer.

6. All other funds on hand and the source from which derived.
7. The total quantity and particular kind of alcoholic liquor sold.
8. The increase or decrease of such liquor sales.
9. Number of arrests and/or convictions for violations of this chapter and/or any other law of this state pertaining to alcoholic liquors.
10. The number of liquor control licenses issued, by class, and the number in effect on the last day included in the report. (Added by Sec. 18, S.F. 437, 60th G. A.)
11. Amount of fees paid to the commission from said liquor control licenses, in gross, and the amount returned to local subdivisions of government as provided under this chapter. (Added by Sec. 18, S.F. 437 - 60th G. A.)

In order that the said commission may be provided with the necessary information to make out the report required by this chapter, it shall be the duty of every justice of the peace, police court, mayor's court and every clerk of a court of record in this state to forward to said commission during the month of July of each year a full and complete report of each case commenced in the court of such justice, police court, mayor's court, or any court of record, in which a violation of this chapter or any other law of this state pertaining to alcoholic liquors was charged, and the disposition of the same.

123.54. State monopoly. There is hereby granted unto said commission the sole and exclusive right of importation, into the state, of all forms of alcoholic liquor, except as otherwise provided in this chapter and no person, partnership, club, corporation, or association shall so import any such alcoholic liquor; and no distillery shall sell any such alcoholic liquor within the state to any person, partnership, club, corporation, or association but only to the commission except as otherwise provided in this chapter, the intent hereof being to vest in said commission exclusive control within the state both as purchaser and vendor of all alcoholic liquor sold by such distilleries within the state or imported therein, except beer as referred to in chapter 124 and amendments thereto, and except as otherwise provided in this chapter.

123.55. Saving clause. This chapter shall not impair or affect any act done, offense committed

or right accruing, secured or acquired, or penalty, forfeiture, or punishment incurred prior to the time this chapter takes effect, but the same may be enjoyed, asserted, enforced, prosecuted, or inflicted, as fully and to the same extent as if this chapter had not been passed.

123.56. Native wines. Notwithstanding anything in this chapter contained, but subject to any regulations or restrictions which the commission may impose, manufacturers of native wines from grapes, cherries, other fruit juices, or honey grown and produced in Iowa may sell, keep, or offer for sale and deliver the same in such quantities as may be permitted by the commission for consumption off the premises.

A manufacturer of native wines shall not sell such wines otherwise than as permitted by this section or allow any wine so sold, or any part thereof, to be drunk upon the premises of such manufacturer. Notwithstanding anything in this chapter contained, any person may manufacture native wine as herein defined for consumption on his own premises.

123.57. Examination of accounts. The enforcement division of the Iowa Liquor Control Commission shall cause the financial condition and transactions of all offices, departments, stores, warehouses, depots and liquor transactions of special distributors of the liquor control commission to be examined at least once each year by the state examiners of accounts and at shorter periods if requested by the commission, governor, or executive council (As amended by Sec. 19, S.F. 437 - 60th G. A.)

123.58. Auditing. All provisions of sections 11.6, 11.7, 11.10, 11.11, 11.14, 11.18, 11.21, and 11.23 of the code, relating to auditing of financial records of governmental subdivisions which are not inconsistent herewith are hereby made applicable to the liquor control commission, the liquor transactions of its special distributors and any of its offices, stores, warehouses and depots.

123.59. "Bootlegger" defined. Any person who shall, by himself, or his employee, servant, or agent, for himself or any person, company, or corporation, keep or carry around on his person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor as herein defined, with intent to sell or dispense of the same by gift or otherwise, in violation of law, or who shall, within this state, in any manner, directly or indirectly, solicit, take, or accept any order for the purchase,

sale, shipment, or delivery of such alcoholic liquors in violation of law, or aid in the delivery and distribution of any alcoholic liquors so ordered or shipped, or who shall in any manner procure for, or sell or give any alcoholic liquors to any minor or interdicted person, for any purpose except as authorized and permitted in this chapter, shall be termed a bootlegger and upon conviction shall be sentenced to the county jail or the penitentiary, in the discretion of the court, for a period not exceeding one year. (As amended by Sec. 20, S.F. 437 - 60th G. A.)

123.60. Nuisances. The building, erection, or place, or the ground itself in or upon which the unlawful manufacture or sale, or keeping with intent to sell, use or give away, any alcoholic liquors is carried on or continued or exists, and any vehicle or other means of conveyance used in transporting such liquor in violation of law, and the furniture, fixtures, vessels and contents, kept or used in connection therewith, are declared a nuisance and shall be abated as in this chapter provided. (As amended by Sec. 21, S.F. 437, 60th G. A.)

123.61. Penalty. Whoever shall erect, establish, continue or use any building, erection or place for any of the purposes prohibited in Section 123.60, is guilty of a nuisance and upon conviction shall be punished by a fine of not less than three hundred dollars, nor more than one thousand dollars, or imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment and shall stand committed until such fine imposed is paid.

123.62. Injunction. Actions to enjoin nuisances shall be brought in equity in the name of the state by the county attorney who shall prosecute the same to judgment.

123.63. Temporary writ. In such action, the court or a judge in vacation, shall, upon the presentation of a petition therefore, allow a temporary writ of injunction without bond, if it shall be made to appear to the satisfaction of the court or judge by evidence in the form of affidavits, depositions, oral testimony or otherwise, that the nuisance complained of exists.

123.64. Notice. Three days notice in writing shall be given the defendant of the hearing of the application, and if then continued at his instance the writ as prayed shall be granted as a matter of course.

123.65. Scope of injunction. When an injunction has been granted, it shall be binding upon the defendant throughout the state and any violation of the provisions of this chapter anywhere within the state shall be punished as a contempt, as herein provided.

123.66. Trial of action. The action, when brought, shall be triable at the first term of court after due and timely service of notice of the commencement thereof has been given.

123.67. General reputation. In all actions to enjoin a nuisance or to establish a violation of the injunction, evidence of the general reputation of the place described in the petition or information shall be admissible for the purpose of proving the existence of the nuisance or the violation of the injunction.

123.68. Contempt. In the case of a violation of any injunction granted under the provisions of this chapter, the court, or in vacation a judge thereof, may summarily try and punish the defendant. The proceedings shall be commenced by filing with the clerk of the court an information under oath setting out the alleged facts constituting such violation, upon which the court or judge shall cause a warrant to issue under which the defendant shall be arrested.

123.69. Trial of contempt action. The trial shall be as in equity and may be had upon depositions, or either party may demand the production and oral examination of the witnesses.

123.70. Penalty for contempt. A party found guilty of contempt under the provisions of section 123.69 shall be punished by a fine of not less than three hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail not less than six months, nor more than twelve months, or by both such fine and imprisonment.

123.71. Injunction against bootlegger. A bootlegger as defined in this chapter may be restrained by injunction from doing or continuing to do any of the acts prohibited herein, and all the proceedings for injunctions, temporary and permanent, and for punishments for violation of the same as prescribed herein, shall be applicable to such person, company, or corporation, and the fact that an offender has no known or permanent place of business, or base of supplies, or quits the business after the commencement of an action, shall not prevent a temporary or permanent injunction, as the case may be, from issuing.

123.72. Conditions. In no case shall a bootlegger injunction proceeding, as provided in this chapter, be maintained unless it be shown to the court that efforts in good faith have been made to discover the base of supplies or place where the defendant charged as a bootlegger conducts his unlawful business or receives or manufactures the alcoholic liquors, of which he is charged with bootlegging.

123.73. Order of abatement. If the existence of the nuisance be established in a civil or criminal action, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the confiscation of the alcoholic liquors by the state, and in case a vehicle or other means of conveyance is abated, the sale thereof as hereinafter provided, the removal from the building or place of all fixtures, furniture, vessels or movable property used in any way in conducting the unlawful business and sale thereof, in the manner provided for the sale of chattels under execution, and the effectual closing of the building, erection or place against its use for any purpose prohibited in this chapter, and so keeping it for a period of one year unless sooner released.

123.74. Use of abated premises. If anyone shall use a building or place so directed to be closed, he shall be punished as for contempt, as provided in this chapter.

123.75. Fees. For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution; and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

123.76. Proceeds of sale. The proceeds of the sale of the personal property in abatement proceedings shall be applied first in payment of the costs of the action and abatement, and second to the satisfaction of any fine and costs adjudged against the proprietor of the premises and keeper of said nuisance, and the balance, if any, shall be paid to the defendant.

123.77. Abatement of nuisance. If the owner appears and pays all costs of the proceeding and files a bond with sureties to be approved by the clerk in the full value of the property, to be ascertained by the court, or in vacation by the clerk, auditor and treasurer of the county, conditioned that he will immediately abate said nuisance and prevent the same from being estab-

lished or kept therein within a period of one year thereafter, the court, or in vacation a judge, may if satisfied of his good faith, order the premises closed under the order of abatement to be delivered to said owner and the said order of abatement canceled, so far as same may relate to said property.

123.78. Abatement before judgment. If the proceedings be an action in equity and said bond be given and costs therein paid before judgment, and order of abatement, the action shall thereby be abated as to said building only.

123.79. Existing liens. The release of the property under the provisions of either Section 123.77 or 123.78 shall not release it from any judgment lien, penalty or liability, to which it may be subject by law.

123.80. Abatement bond a lien. Undertakings of bonds for abatement shall immediately after filing by the clerk of the district court be docketed and entered upon the lien index as required for judgments in civil cases, and from the time of such entries shall be liens upon real estate of the persons executing the same, with like effect as judgments in civil actions.

123.81. Attested copies filed. Attested copies of such undertakings may be filed in the office of the clerk of the district court of the county in which the real estate is situated in the same manner and with like effect as attested copies of judgments, and shall be immediately docketed and indexed in the same manner.

123.82. Forfeiture of bond. If the owner of a property who has filed such abatement bond as in this chapter provided fails to abate the said liquor nuisance on the premises covered by the bond, or fails to prevent the maintenance of any liquor nuisance on said premises at any time within the period of one year, the court must, after a hearing in which the said fact is established direct an entry of such violation of the terms of his said bond, to be made on the record and the undertaking of his bond thereupon forfeited.

123.83. Procedure. A proceeding to forfeit an abatement bond shall be commenced by filing with the clerk of the court, by the county attorney of the county where the bond is filed, an application under oath to forfeit said bond, setting out the alleged facts constituting the violation of the terms of said bond upon which the judge or court shall direct by order attached to

said application that a notice be issued by the clerk of the district court directed to the principal and sureties on said bond to appear at a certain date fixed to show cause, if any they have, why the said bond should not be forfeited and judgment entered for the penalty therein fixed.

123.84. Method of trial. The trial shall be to the court and as in equity, and be governed by the same rules as to evidence as in contempt proceedings.

123.85. Judgment. If the court after hearing finds a liquor nuisance has been maintained on the premises covered by the abatement bond and that liquor has been sold or kept for sale on the premises contrary to law within one year from the date of the giving of said bond, then the court shall order the forfeiture of the bond and enter judgment for the full amount of said bond against the principal and sureties thereof, and the lien on the real estate heretofore created shall be decreed foreclosed and the court shall provide for a special and general execution for the enforcement of said decree and judgment.

123.86. Appeal. Appeal may be taken as in equity cases and the cause be triable de novo except that if the state appeals it need not file an appeal or supersede as bond.

123.87. County attorney to prosecute. It shall be the duty of the county attorney to prosecute in the name of the state all forfeitures of abatement bonds and the foreclosures of same.

123.88. Prompt service. It shall be a misdemeanor for any peace officer to delay service of original notices, writs of injunction, writs of abatement or warrants for contempt in any equity case filed for injunction or abatement by the state.

123.89. Evidence. On the issue whether a party knew or ought to have known of such nuisance, evidence of the general reputation of the place shall be admissible.

123.90. Counts. Information or indictments under this chapter may allege any number of violations of its provisions by the same party, but the several charges must be set out in separate counts, and the accused may be convicted and punished upon each one as on separate informations or indictments and a separate judgment shall be rendered on each count under which there is a finding of guilty.

123.91. Penalties generally. Unless other penalties are herein provided, any person who violates any of the provision of this chapter, or who makes a false statement concerning any material fact in submitting an application for a permit or license, shall be punished by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than three months nor more than one year, or by both such fine and imprisonment.

123.92. Violation by members and employees—acceptance of bribe. Any member, secretary, officer or employee of the commission who shall knowingly or willfully violate any of the provisions of this chapter, or knowingly and willingly aid, assist or permit any such violation, shall be guilty of a misdemeanor and be punishable by fine of not to exceed one thousand dollars, nor less than three hundred dollars, or by imprisonment in the county jail for not less than three months, nor more than one year, or by both such fine and imprisonment.

Section 739.2 is hereby made applicable to the members and employees of the liquor control commission.

123.93. Duty of enforcement division and peace officers. In every county the enforcement division will constitute the head of the enforcement provision for the liquor control commission. The state department of public safety, county attorney, the sheriff and his deputy or deputies, and the police department of every city, including the day and night marshal of any incorporated town, shall be supplementary aids to such enforcement division.

Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section will be sufficient cause for his removal as provided for by the statutes of the state.

Nothing in this section shall be construed to remove or lessen the duties or responsibilities of any county attorney or peace officer with respect to law enforcement. (As amended by Sec. 22, S.F. 437, 60th G. A.)

123.94. Saving clause as to permits. No repeal declared in this chapter shall be deemed to affect the validity or continued operation of any existing permit issued upon Chapters 130 to 134, inclusive of the code, until said permits are formally terminated by the commission and the power to terminate is hereby vested in the commission.

The following Sections are added to Chapter 123 by S.F. 437, 60TH G. A.:

Sec. 29 - S.F. 437. Every husband, wife, child, parent, guardian, employer or other person who shall be injured in person or property or means of support by an intoxicated person or resulting from the intoxication of any such person, shall have a right of action, severally or jointly against any licensee or permittee who shall sell or give any beer or intoxicating liquor to any such person while he is intoxicated, or serve any such person to a point where such person is intoxicated, for all damages actually sustained. Every liquor control licensee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the commission. (As amended by Sec. 8, S.F. 485, 60th G. A.)

Sec. 30 - S.F. 437. It is unlawful for any person, firm, corporation, partnership, or association to allow the dispensing or consumption of intoxicating liquor or intoxicating beverages except sacramental wines and beer, in any establishment unless such establishments are licensed under this title. Provided, however, the provisions of this section shall not apply to bona fide conventions or meetings where mixed drinks are served to delegates or guests without cost. All other provisions of this chapter shall be applicable to such rooms. The provisions of this section shall have no application to occasional private social gatherings of friends or relatives in a private home or place.

Sec. 31 - S.F. 437. There is hereby imposed on every individual, partnership, corporation, association or club licensed to sell alcoholic beverages for consumption on the premises where sold, an occupational tax to be computed on all alcoholic beverages sold, as follows:

An amount equivalent to ten (10) percent upon the gross receipts of any licensee from all sales of alcoholic beverages in the state of Iowa. This occupational tax on gross receipts shall be in lieu of sales tax thereon.

Sec. 32 - S.F. 437. On or before the fifteenth day of each month every such licensee shall render to the commission a report sworn to by an officer or agent in the case of corporations and by the owner or agent in the case of an individual licensee, showing the amount of receipts from sales of such alcoholic beverages in the state of Iowa during the preceding calendar month and

such other information as the commission may require, such reports to be on forms to be provided by the commission. Such reports shall be accompanied by payment of ten (10) percent of the gross receipts received during the calendar month covered by such report.

Sec. 33 - S.F. 437. A penalty of five (5) percent per month of the amount of the tax shall be added thereto if the report is not filed and the tax paid to the commission by said fifteenth day of the calendar month.

Sec. 34 - S.F. 437. "Gross receipts" as used in this chapter as amended, means the amount received in money, credits, property or other moneys worth in consideration of sales of such alcoholic beverages within this state, without any deduction on account of the cost of the property sold, the costs of the materials used, the cost of labor or services, purchases, amounts paid for interest or discount, or any other expenses whatsoever. No deductions shall be allowed for losses of any nature.

Sec. 35 - S.F. 437. All revenues, except the portion of license fees remitted to the local authorities, arising under the operation of the provisions of this chapter as amended shall become part of the state general fund.

Sec. 36 - S.F. 437. The failure or refusal on the part of any licensee to render any report or remit any taxes to the commission under this chapter as amended when due shall be grounds for suspension or revocation of the liquor control license.

Sec. 37 - S.F. 437. The general assembly hereby determines and declares that the provisions of sections thirty-seven (37) through fifty (50) of this Act are necessary in order to control alcoholic beverages and aid the enforcement of laws prohibiting operation of a motor vehicle while in an intoxicated condition.

Sec. 38 - S.F. 437. As used in sections thirty-seven (37) through fifty (50) of this Act the words "peace officer" means:

1. Members of the highway patrol.
2. Police officers under civil service as provided in chapter three hundred sixty-five (365) of the Code.
3. Sheriffs.
4. Regular deputy sheriffs who have had formal police training.

Sec. 39 - S.F. 437. Any person who operates a motor vehicle in this state upon a public highway, under such circumstances as to give reasonable grounds to believe the person to have been operating a motor vehicle while in an intoxicated condition, shall be deemed to have given consent to the withdrawal from his body of specimens of his blood, breath, saliva, or urine, and to a chemical test or tests thereof, for the purpose of determining the alcoholic content of his blood, subject to the provisions hereinafter set out. The withdrawal of such body substances, and the test or tests thereof, shall be administered at the written request of a peace officer having reasonable grounds to believe the person to have been operating a motor vehicle upon a public highway of this state while in an intoxicated condition, and only after the peace officer has placed such person under arrest for the offense of operating a motor vehicle while in an intoxicated condition. If such person requests that a specimen of his blood not be withdrawn, then a specimen of his breath, saliva, or urine shall be withdrawn at the written request of such peace officer; provided, however, that if such person refuses to submit to any chemical testing, no test shall be given, and the provisions of section forty-three (43) of this Act shall apply. However, if such peace officer fails to provide such test within two (2) hours after such arrest, no test shall be required, and there shall be no revocation under the provisions of section forty-three (43) of this Act.

Sec. 40 - S.F. 437. Only a licensed physician, or a medical technologist or a registered nurse designated by a licensed physician as his representative, acting at the written request of a peace officer may withdraw such body substances for the purpose of determining the alcoholic content of the person's blood. Only new, originally factory wrapped, disposable syringes and needles, kept under strictly sanitary and sterile conditions shall be used for drawing blood. Such person may have an independent chemical test or tests administered in addition to any administered at the direction of a peace officer. The failure or inability of the person to obtain an independent chemical test or tests shall not preclude the admission in evidence of the results of the test or tests taken at the direction of the peace officer. Upon the request of the person who is tested, the results of the test or tests taken at the direction of the peace officer shall be made available to him.

Sec. 41 - S.F. 437. Any person who is dead, unconscious or who is otherwise in a condition

rendering him incapable of consent or refusal shall be deemed not to have withdrawn the consent provided by section thirty-nine (39) of this Act, and the test may be given; provided that a licensed physician shall certify in advance of such test that such person is dead, unconscious or otherwise in a condition rendering him incapable of consent or refusal. In such case such condition shall obviate the requirements of arrest and advice pursuant to section forty-two (42) of this Act.

Sec. 42 - S.F. 437. A peace officer shall advise any person who is requested to take any chemical test that a refusal to submit to such test will result in revocation of the person's license or privilege to operate a motor vehicle; provided, however, that this requirement shall not apply in the case of any person referred to in section forty-one (41).

Sec. 43 - S.F. 437. If a person under arrest refused to submit to the chemical testing no test shall be given, but the commissioner of public safety, upon the receipt of a sworn report of the peace officer that he had reasonable grounds to believe the arrested person to have been operating a motor vehicle upon a public highway of this state while in an intoxicated condition, that he had placed such person under arrest for the offense of operating a motor vehicle while in an intoxicated condition and that the person had refused to submit to the chemical testing, shall revoke his license or permit to drive and any nonresident operating privilege for a period of not less than one hundred twenty (120) days nor more than one (1) year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner shall deny to the person the issuance of a license or permit within one year from the date of the alleged violation, subject to review as hereinafter provided. The effective date of any such revocation shall be twenty (20) days after the commissioner has mailed notice of such revocation to such person by registered or certified mail, as amended by Sec. 9, S.F. 485, 60th General Assembly.

Sec. 44 - S.F. 437. Upon the written request of a person whose privilege to drive has been revoked or denied, the commissioner of public safety shall grant the person an opportunity to be heard within ten days after the receipt of the request, but the request must be made within thirty days after the effective date of revocation

or denial. The hearing shall be before the commissioner or his authorized agent, in the county wherein the alleged events occurred for which the person was arrested, unless the commissioner or his authorized agent and the person agree that the hearing may be held in some other county. The hearing shall be recorded and its scope shall cover the issues of whether a peace officer had reasonable grounds to believe the person to have been operating a motor vehicle upon a public highway of this state while in an intoxicated condition, whether the person was placed under arrest and whether he refused to submit to the test or tests. The commissioner or his authorized agent shall order that the revocation or denial be either rescinded or sustained, as amended by Sec. 9, S.F. 485, 60th General Assembly.

Sec. 45 - S.F. 437. If the revocation or denial is sustained the person whose license, permit to drive, or nonresident operating privilege has been revoked or denied, may file a petition within thirty days after the determination by the commissioner of public safety or his authorized agent for a hearing of the matter in the district court in the county wherein the alleged events occurred for which he was arrested or in the county in which the administrative hearing was held. It shall be the duty of the court to set the matter for hearing, and the petitioner shall give twenty days notice thereof to the commissioner. Within fifteen days after receipt of the notice, the commissioner shall file in the office of the clerk of the district court to which the appeal is taken a certified transcript of the testimony and all other proceedings. It shall constitute the record on which the commissioner made his determination. The court thereafter shall hear the matter de novo and shall affirm or vacate the decision of the commissioner or his authorized agent. The person or the commissioner may appeal to the supreme court in accordance with the Iowa Rules of Civil Procedure.

Sec. 46 - S.F. 437. Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while operating a motor vehicle upon a public highway of this state while in an intoxicated condition, evidence of the amount of alcohol in the person's blood at the time of the act alleged as shown by a chemical analysis of his blood, breath, saliva or urine is admissible.

Sec. 47 - S.F. 437. If the person under arrest refuses to submit to the test or tests, proof of

refusal shall be admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating a motor vehicle upon a public highway of this state while in an intoxicated condition.

Sec. 48 - S.F. 437. The provisions of this Act shall not be construed as limiting the introduction of any other competent evidence bearing on the question of whether the person was in an intoxicated condition.

Sec. 49 - S.F. 437. When it has been finally determined under the procedures of this Act that a nonresident's privilege to operate a motor vehicle in this state has been revoked or denied, the department of public safety shall give information in writing of the action taken to the official in charge of traffic control or public safety of the state of the person's residence and of any state in which he has a license.

Sec. 50 - S.F. 437. Sections thirty-seven (37) through fifty (50) of this Act may be cited as the "Uniform Chemical Test for Intoxication Act."

Sec. 51 - S.F. 437. It is hereby declared to be the legislative intent that if this Act cannot take effect in its entirety because of the decision of any court holding unconstitutional any part, sentence or clause thereof, the remaining provisions of the Act shall be given full force and effect as completely as if the part held unconstitutional had not been included herein.

The following Sections added to Chapter 123 by Sec. 11, S.F. 179, 60TH General Assembly.

1. Upon attempt to purchase alcoholic liquor in any state liquor store or from any special distributor by any person who appears to the vendor or special distributor to be under twenty-one (21) years of age, such vendor or special distributor shall demand and the prospective purchaser upon such demand shall display satisfactory evidence that such purchaser is twenty-one (21) years of age or over.

2. Any person who presents to any vendor or special distributor falsified evidence of age as provided in subsection one (1) of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred (100) dollars and not more than three hundred (300) dollars or imprisoned in the county jail for not more than thirty (30) days or by both such fine and imprisonment.

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