

A BILL

FOR AN ACT AMENDATORY OF CHAPTER 143 OF THE ACTS OF THE TWENTIETH GENERAL ASSEMBLY RELATING TO INTOXICATING LIQUORS, AND PROVIDING FOR THE MORE EFFECTUAL SUPPRESSION OF THE ILLEGAL SALE OF INTOXICATING LIQUORS AND ABATEMENT OF NUISANCES.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That actions to enjoin nuisances, as authorized by section 12 of chapter 143 of the acts of the Twentieth General Assembly, shall be brought in the name of the State of Iowa, by the district or county attorney of the proper county; and it shall be the duty of such district or county attorney where any such nuisance exists, to institute and prosecute such action for the abatement thereof; *provided, however,* if after notice or information given him of such nuisance, said district or county attorney refuse or neglect to bring suit, then any citizen residing in the county may institute and prosecute such action in the name of the State for the abatement of such nuisance. All such actions shall be triable at the first term of court after due and timely notice of the commencement thereof has been given. Evidence of the general reputation of the place designated in the petition shall be admissible to prove the existence of such nuisance, and if successful in the action the plaintiff shall be entitled to an attorney fee of not less than twenty dollars, to be taxed and collected as costs against the defendant.

SEC. 2. In any such action, the court if in session, or the judge thereof in vacation shall upon the demand of the attorney or party charged with the management of the cause for the plaintiff, grant a temporary injunction without bond, if it be made to appear to the satisfaction of the court or judge, by evidence in the form of affidavits or otherwise as the court or judge may order, that such nuisance actually exists or is being maintained. And when the cause is continued at the instance of the defendant, a temporary injunction shall be issued as a matter of course without bond.

SEC. 3. In case of the violation of any injunction granted in such action, the court, or in vacation the judge thereof shall have power to try summarily and punish the party or parties guilty thereof, as required by section 12 of chapter 143, acts of the Twentieth General Assembly; *provided,* that if the penalty inflicted for such contempt be imprisonment alone, it shall not be for less than three nor more than six months. The evidence in such proceeding or trial for contempt may be in the form of affidavits, or the witnesses may be brought

7 before the court or judge for examination, as may be ordered, and the provisions of section
8 3404 of the Code shall not be held to apply to persons charged with violating injunctions
9 issued under this act, and the act to which this is amendatory.

SEC. 4. Whoever is convicted of keeping a nuisance, as provided in section 12 of chapter
2 143, acts of the Twentieth General Assembly, shall pay a fine not exceeding one thousand
3 dollars nor less than three hundred dollars and costs of prosecution, and stand committed
4 until such fine and costs are paid ; and the provisions of chapter 47, title 25 of the Code,
5 shall not be applicable to persons committed under this section.

SEC. 5. If the existence of the nuisance be established, either in equitable or criminal
2 action, it shall be abated under the judgment and order of the court by destroying all the
3 liquors therein, and removing from the building, erection or place, all fixtures, furniture,
4 vessels, and all movable property used in or about the premises in carrying on the unlawful
5 business, and selling the same in the manner provided for the sale of chattles under execu-
6 tion ; and by securely closing the building, erection or place, and keeping the same securely
7 closed for the period of one year (unless sooner released as hereinafter provided), and any
8 person breaking open said building, erection or place, or using the premises so ordered to be
9 closed, shall be punished as for contempt as above provided in case of violations of injunc-
10 tions.

SEC. 6. The proceeds of the sale of the personal property as provided in the preceding
2 section, shall be applied : *First*, in payment of the costs of the action and abatement.
3 *Secondly*, to the satisfaction of any fine and costs adjudged against the proprietor of the
4 premises and keepers of the nuisance, and the balance if any, shall be paid into the county
5 treasury.

SEC. 7. If the owner appear and pay all costs of the proceeding and file a bond with sur-
2 eties to be approved by the clerk in the full value of the property, to be ascertained by the
3 court, or in vacation by the clerk, auditor or treasurer of the county, conditioned that he
4 will immediately abate said nuisance and prevent the same from being established or kept
5 in the future, the court, or in vacation the judge, if satisfied of his good faith, may order
6 the premises so taken and closed under the order of abatement, to be delivered to said
7 owner, and said order of abatement cancelled so far as the same may relate to said property,
8 and if the proceeding be an action in equity, and said bond be given and costs paid before
9 judgment and order of abatement, the action shall be thereby abated ; provided, however,
10 that the release of the property under this section shall not release it from any judgment,
11 lien or penalty or liability to which it may be subject under any other law.

SEC. 8. In all actions, equitable or criminal, under the laws of this State prohibiting the
2 illegal manufacture and sale of intoxicating liquors, the finding of such liquors, except in
3 the possession of one legally authorized to sell the same, shall be presumptive evidence that

4 the same were kept for illegal sale, and proof of actual sale shall be presumptive evidence
5 of illegal sale.

SEC. 9. Any person who shall have been convicted of keeping a nuisance under the laws
2 prohibiting the illegal sale of intoxicating liquors, or who shall have been enjoined under
3 the provisions of this act, or the act to which this is amendatory, and shall again engage in
4 or be concerned in, or in any manner connected with such unlawful business of keeping a
5 nuisance or selling such liquors in violation of law in the same or any other county in this
6 State, shall upon conviction thereof be punished by imprisonment in the penitentiary not
7 less than three nor more than five years.

SEC. 10. That section 1553 of the Code as amended and substituted by chapter 143 of the
2 acts of the Twentieth General Assembly, be and the same is hereby repealed, and the fol-
3 lowing enacted in lieu thereof :

4 Section 1553. If any express company, railway company, or any agent or person in the
5 employ of any express company, or railway company, or if any common carrier, or any
6 person in the employ of any common carrier, or if any other person bring within this
7 State for any other person or persons, or corporation, or shall transport, or convey be-
8 tween points, or from one place to another within the State, for any other person or per-
9 sons or corporation, any intoxicating liquors without first having been furnished with a
10 certificate from and under the seal of the county auditor of the county to which said
11 liquor is to be transported or is consigned for transportation, or within which it is to be
12 conveyed from place to place, certifying that the consignee or person to whom said
13 liquor is to be transported, or conveyed, or delivered, is authorized to sell such intoxica-
14 ting liquors in such county, such company, corporation or person so offending, and each
15 of them, and any agent of such company, corporation or person so offending shall upon
16 conviction thereof be fined in the sum of one hundred dollars for each offense, and stand
17 committed to the county jail until such fine and costs of prosecution are paid, and one-
18 half of the fine shall go to the informer, and the other half shall go to the school fund
19 of the county. The offense herein defined shall be held complete, and shall be held to
20 have been committed in any county of the State through or to which said intoxicating
21 liquors are transported, or in which the same are loaded for transportation, or in which
22 said liquors are conveyed from place to place or delivered. It shall be the duty of the
23 several county auditors of this State to issue the certificate herein contemplated to any
24 person having such permit, and the certificate so issued shall be truly dated when
25 issued, and shall specify the date at which the permit expires, as shown by the county
26 records.

SEC. 11. If any person for the purpose of procuring the shipment, transportation or con-
2 veyance of any intoxicating liquors from point to point, or from one place to another within

3 this State, shall make to any company or corporation or common carrier, or to any agent of
4 any such company, corporation or common carrier, or other person, any false statement as
5 to the character or contents of any box, barrel or other vessel or package containing such
6 liquors, or shall refuse to give correct and truthful information as to the contents of any
7 such box, barrel or other vessel or package so sought to be transported or conveyed ; or shall
8 falsely mark, brand or label such box, barrel or other vessel or package in order to conceal
9 the fact that the same contains intoxicating liquors for the purpose aforesaid ; or shall by
10 any device or concealment procure or attempt to procure the conveyance or transporta-
11 tion of such liquors as herein prohibited, he shall upon conviction be fined for each
12 offense one hundred dollars and costs of prosecution, and be committed to the county jail
13 until such fine and costs are paid, one-half of the fine to go to the informant and the other
14 to the school fund of the county. Any company, or corporation or person applied to to
15 transport or convey any box, barrel or other vessel or package, or any peace officer of the
16 county shall have the right to open the same for examination if he has reason to believe
17 that it contains intoxicating liquors, either before or while the same is being so transported
18 or conveyed.

SEC. 12. That section 1558, of the Code be, and the same is hereby repealed, and the fol-
2 lowing enacted in lieu thereof :

3 Section 1558. For all fines and costs assessed or judgments rendered of any kind
4 against any person for any violation of the provisions of this chapter, or costs paid by
5 the county on account of such violations, the personal and real property of such person,
6 as well as the premises and property, real and personal, occupied and used for the pur-
7 pose, with the knowledge of the owner thereof or his agent, by the person manufactur-
8 ing or selling, or keeping with intent to sell, intoxicating liquors contrary to law, shall
9 be liable ; and all such fines, judgments and costs shall be a lien on such real estate un-
10 til paid ; and when any person is required by section fifteen hundred and twenty-eight,
11 and fifteen hundred and twenty-nine of this chapter to give bond with sureties, the
12 principal and sureties on such bond shall be jointly and severally liable for all civil
13 damages, costs and judgments, that may be rendered against the principal in any civil
14 action authorized to be brought against him for any violation of the provisions of this
15 chapter ; *provide* l, there shall be exempt, such personal effects as may be necessary for
16 the support of the family of the defendant for six months, to be determined under the
17 direction of the court. Costs paid by any county for the prosecution or on account of
18 any violation of the law prohibiting the illegal sale of intoxicating liquors, that would
19 be a lien under the above provision, and including costs paid in seizure and condemna-
20 tion proceedings, may be recovered by such county, by the enforcement of such lien by
21 execution or by action against the owner, to subject the property to sale for the payment

22 thereof. And evidence of the general reputation of the place, shall be admissible, and
24 if proven shall be sufficient to charge the owner with knowledge, or other means of
25 knowledge within reasonable reach of the owner or his agent or written notice given
26 him by any citizen of the county, shall be sufficient to charge the owner with knowledge
27 under the provisions of this section.

SEC. 13. All acts and parts of acts inconsistent with this act are hereby repealed; *pro-*
2 *vided, however,* this repeal shall not affect any act done, right accruing or accrued, or es-
3 tablished, nor any action or proceeding commenced prior to the time this repeal takes effect,
4 nor any offense committed or penalty or forfeiture incurred; any suit or proceeding pend-
5 ing when this repeal takes effect, or thereafter brought for an offense, committed, or forfeit-
6 ure or penalty incurred prior thereto, shall be maintained and prosecuted under the law
7 as in force prior to the taking effect of this act.

SEC. 14. This act being deemed of immediate importance, shall take effect and be in force
2 from and after its publication in the "Iowa State Register" and "Iowa State Leader,"
3 newspapers published at Des Moines.