

A BILL

FOR AN ACT REPEALING CHAPTER 6, TITLE XI, OF THE CODE OF 1873, AND ALL AMENDMENTS THERETO; ENACTING IN LIEU THEREOF A PROVISION FOR LEVYING A TAX UPON THE OCCUPATION OF DEALING IN INTOXICATING LIQUORS OF ALL KINDS; PROVIDING FOR THE COLLECTION OF THE SAME, AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF.

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

SECTION 1. That chapter 6, title XI, of the Code, from sections 1523 to 1559 inclusive, and all the amendments thereto are hereby repealed, and the following sections enacted in lieu thereof:

SEC. 2. "Section 1524. That for the purposes of this act and for the purpose of executing the same, the board of supervisors in each county of the State shall have the sole authority to issue permits under this act, and the county auditor shall be the clerk of such board for the purposes of this act."

SEC. 3. "Section 1525. The provisions of this act shall also apply to cities operating under special charters, as well as those organized under the general incorporation laws of the State."

SEC. 4. "Section 1526. The tax mentioned in this act shall not be less than two hundred and fifty dollars per year in advance, payable by any person or persons, partnership or corporation desiring to engage in the business of selling or dealing in intoxicating liquors as defined in this act; *provided*, that at a special election called for that purpose, after this act shall go into effect, and before any permits are granted under this act, a majority of the qualified electors of any city, incorporated town, or of any township may say by ballot whether such tax shall be increased to five hundred dollars, or to seven hundred and fifty dollars or to one thousand dollars per year; and at any regular municipal election in such city or incorporated town, or at any general election in such township, held once in every two years and not oftener, as provided in this act, such qualified electors may say whether such tax shall be increased therein to five hundred dollars per year, or to seven hundred and fifty dollars per year, or to one thousand dollars per year, or whether such tax shall be reduced to seven hundred and fifty dollars per year, or to five hundred dollars per year, or to two hundred and fifty dollars per year, which amount so voted shall embrace the limits of such city, incorporated town or township, and the two-mile limit mentioned hereafter in this act."

SEC. 5. "Section 1527. If one-fifth of all the qualified electors in any city, incorporated town
2 or township, whose names are on the poll book of the last preceding municipal election, or
3 in case of any township, on the poll book of the last general election in such township,
4 shall, in an application signed by them, request the mayor of such city, or incorporated town
5 or the trustees of such township, as the case may be, to submit such questions for either the
6 increase or reduction of the amount of such tax therein, then it shall be the duty of such
7 mayor, or of such trustees, as the case may be, to give notice of such submission of such pro-
8 position as is provided herein, provided that such written application shall be on file with
9 such mayor or with such township clerk of such township, as the case may be, at least ten
10 full days before the date of such election. That for the purposes of the special election
11 mentioned in section 1525 of this act, no application for such special election shall be
12 invalid for the reason that the names of such qualified voters were signed to said appli-
13 cation between the date of the approval of this act, as an act of the General Assembly, and
14 the date when such act shall go into effect."

SEC. 6. "Section 1528. The proper election officers of such city, incorporated town or town-
2 ship, for the purpose of conducting either such special or such general election, shall provide
3 a separate box for the use and reception of the ballots required in submitting to such qualified
4 electors, any question of increase or reduction of the tax mentioned herein; and the ballots
5 therefor shall be on separate pieces of paper, and detached from any other ballots at any
6 general election or municipal election herein, and shall have written or printed thereon,
7 either the words: 'For a liquor tax of \$. (stating the amount to which it is intended to
8 either to raise it or to reduce it), per year;' or 'Against a liquor tax of \$. (stating the
9 amount to which it is proposed to either reduce it or raise it), per year.' In all cities and
10 incorporated towns the mayor thereof shall issue his proclamation containing the date and
11 place of such election to either increase or reduce such tax, together with the amount to
12 which it is proposed to either raise or to reduce such tax, at least five full days before the
13 date fixed for such election; and in case of any township, the township trustees shall pub-
14 lish notice of such election by posting twenty printed notices in twenty places in such town-
15 ship, which printed notices shall contain the date and place of such election, and the propo-
16 sition to be voted upon in full; and shall be posted five full days before the date of such
17 election."

SEC. 7. "Section 1529. If the majority of all the qualified electors who voted at such
2 election held under the provisions of this act shall be for such change in the amount of
3 such tax, then the city, or the town council, or the township trustees, as the case may be,
4 shall, within five days thereafter, certify that fact to the board of supervisors of such county
5 and after the receipt of such certificate by such board of supervisors, or by the county
6 auditor, the tax in such city, incorporated town, or township, as the case may be, shall be in

7 strict accordance in amount with such vote cast, canvassed, and certified to such board of
8 supervisors or county auditor; *provided*, that such increase or reduction shall not in any
9 way affect a tax already paid except as provided in section eight of this chapter.”

SEC. 8. “Section 1530. All permits under this act shall terminate on the first Monday in
2 April of each and every year; *provided*, that any person who has been granted a permit
3 under this act for a period of six months or less, preceding such first Monday in April of
4 each year, shall be allowed to continue under such permit for one year additional after
5 such first Monday in April, without renewing his application and bond therefor upon con-
6 dition of his paying the amount of tax in operation and required in such city, incorporated
7 town, or township on and after such first Monday in April.”

SEC. 9. “Section 1531. Such board of supervisors may issue a permit to any citizen of
2 any city, incorporated town, or township, according to the provisions of this act, who is not
3 a person of known intemperate habits, and who has not been convicted of any felony under
4 the laws of this or any other State or Territory, or district of the United States, or under
5 the laws of the United States, or who has not been convicted of any violation of any of the
6 provisions of this act or whose permit has not been revoked in such county, or in any other
7 county in this State; *provided*, such person or persons, partnership, or corporation shall file
8 an application under oath setting out the fact that the person so interested in such business
9 is not a person of intemperate habits, has not been convicted of such felony, and has never
10 had such permit revoked as herein provided; *provided*, also that in addition to other require-
11 ments herein such board of supervisors shall issue no permit hereunder unless the same is
12 also petitioned for by a majority of all the qualified electors of the ward in any city, or in-
13 corporated town, or in the township in which it is proposed to carry on such business, such
14 qualified electors being those whose names appear on the poll book of the last preceding
15 general election in such city, incorporated town or township, and, *provided, further*, that
16 such applicant shall also file with his application with the county auditor a bond in the
17 penal sum of three thousand dollars with not less than two sufficient sureties, to be ap-
18 proved by such board of supervisors, conditioned as required hereafter in this act. No
19 surety who has already signed two such bonds, and which have been approved under this
20 act, shall be eligible to sign any other or further bonds under this act, until released there-
21 from by a proper order of such board of supervisors, and all such bonds when approved
22 shall remain in full force for a period of three years from the date of approval thereof,
23 for the benefit of the parties for whose use said bond may be executed, and approved, by
24 such board of supervisors.”

SEC. 10. “Section 1532. The application and bond required in this chapter shall be on file
2 with such county auditor and open to inspection at least five days before the meeting of the
3 board of supervisors set for the hearing and consideration of such application for permit;

4 and such applicant shall publish a copy of his application and bond at least five days before
5 such meeting of such board of supervisors in one newspaper nearest to his proposed place of
6 business, if there be one in the city, incorporated town or township; and in case no such
7 newspaper is published therein, then he shall publish such application and bond in a
8 printed hand-bill posted in ten public places in such city, incorporated town, or in such
9 township for the same period as is provided for newspaper publication; and make proof of
10 such publication or such notice under oath by copy of such publication by newspaper or by
11 hand-bill.”

SEC. 11. “Section 1533. Any citizen of such county may appear before such board of super-
2 visors on the day set for hearing and make proof that the person offering to pay such tax is
3 not a person of temperate habits, has been convicted of such felony, or has had such permit
4 revoked in any county in this State, or has been convicted for a violation of this act in any
5 county in this State, or that the sureties on the bond tendered are not solvent, or have no
6 property as required by law for proper sureties, or that the property of such sureties is so
7 encumbered as to be of no avail in law, or is exempt from execution. provided that all such
8 facts in relation to either conviction or revocation of permit shall be evidenced by a certi-
9 fied copy of the official record thereof, and all oral testimony of other facts shall be under
10 oath, and subject to cross-examination.”

SEC. 12. “Section 1534. No election to change the amount of tax provided under this
2 chapter shall be held oftener than once in every two years.”

SEC. 12. “Section 1535. No fees for any witnesses in any proceedings before such board
2 of supervisors under the provisions of this chapter, and no expenses for such certificates of
3 record of conviction or revocation of permit shall be paid out of the county treasury, but
4 shall be paid by the person procuring and using the same.”

SEC. 13. “Section 1536. If the board of supervisors shall be satisfied that such applicant
2 has complied with all of the provisions of this act, and that he is ready to pay the tax pro-
3 vided herein, they shall make an order of record in accordance therewith; and the county
4 auditor shall issue such permit under seal upon the payment to him in cash by such appli-
5 cant of the tax herein provided for, the term ending the first Monday of April following
6 the date of such order, with an additional fee of two dollars, and all costs incurred upon
7 such application. The said fee of two dollars shall be paid into the county treasury for the
8 general fund of such county, and the costs shall be paid to the parties entitled thereto.”

SEC. 14. “Section 1536. The bond required by this chapter shall be in the name of such
2 county as obligee, and shall be for the use and benefit of any wife, or child or children, or
3 dependent parent or parents, who may be deprived of their proper support and maintenance
4 by reason of the sale of any intoxicating liquors herein, to any habitual drunkard, or
5 any person of known intemperate habits; and for the use and benefit of any husband or

6 wife who may be injured by such sale to either the wife or the husband, as the case may be,
7 after such person receiving such permit shall have received a written notice, served by some
8 peace officer of such county, not to sell such intoxicating liquors to such husband or wife, as
9 the case may be. The action on such bond shall be in the name of the county for the use
10 of the person or persons injured by such sale, and if the person or persons injured be indi-
11 gent the action may be brought by the county attorney. In all actions on any such bond
12 only actual damages shall be recovered.”

SEC. 15. “Section 1537. No permit to sell under this chapter shall be construed or used to
2 cover such sales in more than one building and only the one described in such permit; and
3 the applicant shall state in his application the description, location, and, if there be one, the
4 street number of the building in which he proposes to engage in such business, all of which
5 facts shall be stated in such permit.”

SEC. 16. “Section 1538. Whenever the county auditor, shall have on file in his office one or
2 more of such applications and bonds belonging thereto, more than one month before any
3 regular session of the board of supervisors, he shall call a special meeting of such board to
4 consider such applications, which call shall be made as to notice to the members as other-
5 wise provided by law; *provided*, that such special sessions shall not be held oftener than
6 once a month, and shall be on the first Monday of the month.”

SEC. 17 “Section 1539. Any permit issued under this chapter may be transferred without
2 the payment of any additional tax until the end of the term for which such permit was is-
3 sued; *provided*, the transferee shall possess all the qualifications required of an original ap-
4 plicant herein, and shall execute a bond in the same sum in like manner. Such transfer
5 may be authorized by the board of supervisors, the same legal steps as to notice and publi-
6 cation as in an original application being necessary, and the business shall only be carried
7 on in the same city, incorporated town or township as described in the original application.”

SEC. 18. “Section 1540. The board of supervisors shall not grant a permit under this
2 chapter for a tax of less than \$250.00, under any circumstances.”

SEC. 19. “Section 1541. When a person holding a permit under this chapter is convicted
2 of violating the provisions of this chapter, the court shall, in all such cases, revoke such
3 permit; but such revocation shall not affect the liability of such defendant or his sureties
4 upon the bond required in this chapter.”

SEC. 18. “Section 1540. If any permit is granted to any person, partnership or corpora-
2 tion, under this chapter, in any city or incorporated town, the same tax shall be required
3 to be paid in any territory embraced within two miles of the corporate limits of any such
4 city or incorporated town.”

SEC. 19. “Section 1541. Registered pharmacists shall not be required to pay the special
2 tax required in this chapter, but they shall be governed in the sale of intoxicating liquors
3 by the general statutes relating to registered pharmacists.”

SEC. 20. "Section 1542. Any person who shall either sell or give away any intoxicating
2 liquors, except as provided in this chapter, or with intent to evade the provisions of this
3 chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not
4 less than \$25.00, nor exceeding \$250.00, or be imprisoned in the county jail not less than 30
5 days, nor more than six months, or both ; and in case a fine only is imposed, shall stand com-
6 mitted to the county jail for a term not exceeding six months until such fine is paid accord-
7 ing to law, and all appearance bonds in such cases shall be conditioned for the payment of
8 any fine that may be imposed by the court, and the sureties on such bond shall be liable
9 therefor."

SEC. 21. "Section 1543." Any person, except registered pharmacists, who shall either sell or
2 give any intoxicating liquors to any habitual drunkard or person of known intemperate
3 habits, or to any person under 21 years of age, shall be guilty of a misdemeanor, and
4 upon conviction shall be fined not less than \$20.00, nor more than \$150.00, or be impris-
5 oned in the county jail not more than three months or both, and in case of sentence to pay
6 a fine, he shall stand committed until such fine and costs are paid according to law, not ex-
7 ceeding three months."

SEC. 22. "Section 1544. Every person holding a permit under this chapter who shall be
2 convicted of a violation of any of the provisions of this chapter, shall, in addition to the
3 other penalties provided herein, have such permit revoked, and the court shall in all such
4 cases enter of record as a part of the sentence an order revoking such permit."

SEC. 23. "Section 1545. The words intoxicating liquors as used in this chapter shall be
2 construed and held to mean all distilled alcoholic spirits of whatever kind or character,
3 and all ale, wine, beer, lager beer, porter, brown stout or any admixture thereof, and all
4 other spirituous, vinous or malt liquors, and all imitations thereof."

SEC. 24. "Section 1546. All contracts in reference to the sale of intoxicating liquors under
2 this chapter shall be valid, except when sold or given away in violation of the provisions of
3 this chapter, when they shall be void."

SEC. 25. "Section 1547. Any person who shall either sell or give any intoxicating liquors
2 to any person after having been notified not to do so as provided in section 1534 of this chap-
3 ter, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in
4 section 1543 of this chapter."

SEC. 26. "Section 1548. Any owner of any building who knowingly permits any person or
2 persons, partnership or corporations, to violate any of the provisions of this chapter by sell-
3 ing intoxicating liquors in such building without having first procured a permit under this
4 chapter, or after such permit has expired or been revoked, shall be guilty of a misdemeanor,
5 and upon conviction shall be punished as provided in section 1542 hereof."

SEC. 27. "Section 1549. The tax received by the county auditor under this chapter shall
2 be paid forthwith to the county treasurer who shall apportion the same as follows: One-
3 third of all the tax collected for permits used in any city or incorporated town shall go to
4 the general county fund, and the remaining two-thirds shall be paid to the treasurer of
5 such city or incorporated town. All of the tax collected from permits used in any township
6 shall be paid to the treasurer of such township for the use of the road fund."

SEC. ... "Section All acts or parts of acts inconsistent with the provisions of this
2 act are hereby repealed."