

January 10, 1951.  
Passed on File.

## House File 1

By STRAWMAN, STEVENS, BOOTHBY,  
MEYER, VAN ZWOL, BASS, KUESTER, POSTON

Passed House, Date .....

Vote: Ayes..... Nays.....

Passed Senate, Date.....

Vote: Ayes..... Nays.....

Approved .....

# A BILL FOR

An Act providing for revocation of licenses for carrying on, or used in carrying on of any business, trade, vocation, commercial enterprise or undertaking, by reason of the possession of gambling devices, and prohibiting the issuance of licenses in certain instances.

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

1 Section 1. For the purpose of this act, the words, terms,  
2 and phrases defined in this section shall have the meanings  
3 given them.

4 1. "Gambling devices" means roulette wheels, klondike tables,  
5 poker tables, punch boards, faro layouts, keno layouts, slot  
6 machines, any ticket, card, sheet, or writing of any kind used  
7 or designed to be used for gambling purposes, and all machines  
8 and devices used for gambling or with an element of chance attend-  
9 ing operation, and all machines and devices of any nature what-  
10 soever adapted, devised and designed for the purpose of gambling.

11 2. "Person" means an individual, a copartnership, an  
12 association, corporation, or any other entity or organization.

13 3. "Municipality" means any county, city, village, town-  
14 ship or town.

15 4. "License" includes permits of every kind, nature and  
16 description issued pursuant to any statute or ordinance for the  
17 carrying on, or used in the carrying on, of any business, trade,  
18 vocation, commercial enterprise or undertaking.

19 5. "Licensee" means any person to whom a license of any  
20 kind is issued.

21 6. "Licensed business" means any business, trade, vocation,  
22 commercial enterprise, or undertaking for which any license is  
23 issued.

24 7. "Licensed premises" means the place or building, or the  
25 room in a building of the licensed business, and all land adjacent  
26 thereto and used in connection with and in the operation of a  
27 licensed business, and all adjacent or contiguous rooms or  
28 buildings operated or used in connection with the buildings of  
29 the licensed business.

30 8. "Issuing authority" and "authority issuing the license"  
31 mean and include the officer, board, bureau, department, commission,  
32 or agency of the state, or of any of its municipalities, by whom  
33 any license is issued and include the councils and governing bodies.  
34 of all municipalities.

1 Sec. 2. The intentional possession or willful keeping of  
2 a gambling device upon any licensed premises is cause for the  
3 revocation of any license upon the premises where the gambling  
4 device is found. Possession by an employee of the licensee on  
5 the premises of the licensee shall give rise to the presumption  
6 of intentional possession by the licensee.

7 All licenses of any licensed business shall be revoked  
8 if the intentional possession or willful keeping of any such  
9 gambling device upon the licensed premises is established, not  
10 withstanding that it may not be made to appear that such devices  
11 have actually been used or operated for the purpose of gambling.

1 Sec. 3. The proceedings for revocation shall be had before  
2 the issuing authority, which shall have power to revoke the license  
3 or licenses involved, as hereinafter provided.

1 Sec. 4. Every sheriff, deputy sheriff, constable, marshal,  
2 policeman, police officer, and peace officer shall observe and  
3 inspect licensed premises and ascertain whether gambling devices  
4 are present thereon and immediately report the finding thereof  
5 to the authority or authorities issuing the license or licenses  
6 applicable to the premises in question.

1 Sec. 5. Upon the receipt of such information from any of  
2 the peace officers referred to in section 4, if any issuing  
3 authority is of the opinion that cause exists for the revocation  
4 of any such license, then that authority shall issue an order to  
5 show cause directed to the licensee of the premises, stating the  
6 ground upon which the proceeding is based and requiring him to  
7 appear and show cause at a time and place within the county in  
8 which the licensed premises are located, not less than ten days  
9 after the date of the order, why his license should not be revoked.  
10 The order to show cause shall be served upon the licensee as an  
11 original notice, or by registered mail, not less than eight days  
12 before the date fixed for the hearing thereof. A copy of the

13 order shall forthwith be mailed to the owner of the premises, as  
14 shown by the records in the office of the County Recorder at his last  
15 known postoffice address. A copy of the order shall at the same  
16 time be mailed to any other issuing authority, of which the  
17 authority issuing the order to show cause has knowledge, by  
18 which other licenses to that licensee may have been issued, and  
19 any such other authority may participate in the revocation pro-  
20 ceedings after notifying the licensee and the officer or authority  
21 holding the hearing of its intention so to do on or before the date  
22 of hearing, and after the hearing take such action as it could have  
23 taken had it instituted the revocation proceedings in the first instance.

1 Sec. 6. If, upon the hearing of the order to show cause,  
2 it appears that the licensee intentionally possessed or willfully  
3 kept upon his licensed premises any gambling device, then the  
4 license or licenses under which the licensed business is operated,  
5 or used in the operation of such business on the licensed premises,  
6 shall be revoked.

7 A licensee whose license has been revoked may within fifteen  
8 days after the date of the order of the issuing authority file an  
9 application for writ of certiorari in the District Court in and for  
10 the county where the business of the licensee is located.

11 Unless the licensee has filed an application for writ of  
12 certiorari in the District Court, revocation shall date from the  
13 16th day following the date of the order of the issuing authority.  
14 In the event the licensee has filed an application for writ of  
15 certiorari in the District Court revocation shall date from the

16 31st day following entry of the order of the District Court, if  
17 action by the District Court is adverse to the licensee.

18 If the licensee appeals to the Supreme Court of Iowa, or  
19 applies for writ of certiorari to such court, revocation shall  
20 not be effective pending determination by the Supreme Court of  
21 Iowa, provided the licensee shall post cash bond with the Clerk  
22 of the District Court in an amount fixed by the Supreme Court of  
23 Iowa, which bond shall be forfeited if the action of the  
24 District Court is affirmed and revocation shall then date  
25 from the day following final disposition by such court.

26 No new license or licenses shall be granted the licensee,  
27 nor for the same business, upon the same premises, for the  
28 period of one year following the date of revocation.

29 Any bond forfeited under the provisions of this section  
30 shall inure to the benefit of the permanent school fund.

1 Sec. 7. The county attorney for the county in which the  
2 hearing is held shall, and the attorney general may, attend  
3 the hearing, interrogate the witnesses, and advise the issuing  
4 authority. The county attorney, shall, and the attorney general  
5 may, also appear for the issuing authority in any certiorari  
6 proceeding taken pursuant to the provisions of section 6.

1 Sec. 8. The issuing authority may issue subpoenas and  
2 compel the attendance of witnesses at any hearing. Witnesses  
3 duly subpoenaed and attending any such hearing shall be paid  
4 fees and mileage by the issuing authority equal to the fees  
5 and mileage paid witnesses in the district court.

1     Sec. 9. When the license is revoked under the provisions  
2 of this act, subject to the provisions of section 6, the owner  
3 of the premises upon which any licensed business has been  
4 operated shall not be penalized by reason thereof unless it is  
5 established that he had knowledge of the existence of the  
6 gambling devices resulting in the license revocation.

1     Sec. 10. This Act being deemed of immediate importance  
2 shall become effective from and after its publication in the  
3 \_\_\_\_\_, a newspaper published  
4 at \_\_\_\_\_, Iowa, and in the  
5 \_\_\_\_\_, a newspaper published  
6 at \_\_\_\_\_, Iowa.

EXPLANATION OF H. F. 1

The effect of this bill is to require peace officers to make inspections of business premises within their jurisdiction, and to report the finding on any premises of gambling devices. Reports are to be made to the authorities issuing business licenses for the business operated upon such premises. Upon receipt of such report the person in whose name the license is issued is ordered to show cause on a hearing as to why the license should not be suspended for one year. All licenses under which the business operates issued by the State or any of its municipalities will be suspended for one year upon violation of the prohibition against the intentional possession or wilful keeping of gambling devices on the premises. Therefore, a business could lose its sales tax license, its tobacco licenses, beverage and dance hall licenses, restaurant licenses, etc.

The hearing is conducted by the authority issuing the license. Appeal is provided to the District Court, which Court may provide for the continuance of the business after posting a bond to insure against a repeated violation. Whether in a given instance the Court makes such provision is within the discretion of the court.

This measure is deemed an efficient means of abolishing gambling. Prosecutions under criminal statutes are difficult and even though convictions are secured penalties imposed are generally inadequate to act as a deterrent.

The States of Minnesota and Wisconsin have adopted legislation which in general conforms to this bill. In those states it has proven to be a very efficient method of control.