

January 30, 1951.  
Police Regulations, Suppression of  
Crime, Intemperance.

**House File 282**  
By BURRIS, JUDD.

Passed House, Date .....

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

Passed Senate, Date.....

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

Approved .....

## **A BILL FOR**

An Act to suppress the increasing abuse of unlicensed and unregulated sales of alcoholic liquor by an exercise of the police power of the state for the protection of the welfare, health, morals and the safety of the people of the state by licensing and regulating the sale of wine and spirits by reputable persons in cities and towns under local conditions; and to amend chapter one hundred twenty-three (123), Code 1950, relating to the sale and control of liquor and for the promotion of temperance, and to provide for the issuance by cities and towns of licenses to sell wine and spirits for consumption on the premises where sold in said cities and towns; levying a tax on all wine and spirits purchased for sale under such licenses; authorizing the state liquor control commission to issue licenses to golf and country clubs located outside of cities and towns under certain conditions; defining the classes of licenses to be issued; prescribing who may obtain licenses and the conditions relating to the issuance of licenses; providing regulations of licensees and the premises covered by such license; providing regulation of licensed premises; providing for the filing of bonds by licensees; providing for revocation of license and forfeiture of bonds; and authorizing cities and towns to adopt ordinances further regulating the sale of wine and spirits. Also providing for the amendment of chapter one hundred twenty-three point twenty-seven (123.27), Code 1950, relating to Iowa Liquor Control Act.

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

1 Section 1. That chapter one hundred twenty-three (123),  
2 Code 1950, is amended by adding thereto the following:

1 Sec. 2. "Cities and towns, including cities under  
2 special charter, shall adopt ordinances regulating the sale  
3 of wine and spirits at retail and may issue licenses to  
4 persons for the sale of wine and spirits at retail, subject  
5 to the conditions and regulations hereinafter set forth.

1 Sec. 3. "Class 'A' licenses for the sale of wine and  
2 spirits at retail for immediate consumption upon the premises  
3 where said business is carried on shall be granted only to  
4 persons or clubs which are located as follows:

5 In cities and towns having a zoning ordinance the  
6 location shall be in an area zoned for retail business.

7 In cities and towns having no zoning ordinance the  
8 location shall be in an area where fifty per cent or more  
9 of the frontage contiguous to the street for a distance of  
10 three hundred feet or more is occupied by buildings or places  
11 used for business purposes. It shall be unlawful to conduct  
12 such business under a Class 'A' license outside the areas  
13 thus determined or established.

1 Sec. 4. "Licenses for the retail sale of wine and  
2 spirits shall be of the following classes:

3 1. A Class 'A' license may be issued to a person  
4 authorizing such licensee to carry on the business of selling  
5 wine and spirits at retail for immediate consumption upon

6 the premises where said business is carried on.

7 2. A Class "B" license authorizing the sale and  
8 serving of wine and spirits for immediate consumption on the  
9 premises may be issued to any person conducting a business  
10 of selling food for consumption on the premises, or to a  
11 club. A club shall mean an association of persons  
12 incorporated under the provisions of chapter five hundred  
13 four (504) as a corporation not for pecuniary profit for  
14 the promotion of some common object, owning, hiring or  
15 leasing a building or space in a building suitable and  
16 adequate for the reasonable and comfortable use and  
17 accommodation of its members and their guests, and provided  
18 for suitable and adequate kitchen and dining room space and  
19 equipment, implements and facilities and employing a sufficient  
20 number of servants or employees for cooking, preparing and  
21 serving food and meals for its members and their guests. Such  
22 club obtaining a license shall file with the council annually,  
23 within ten days of February 1st of each year, a list of the  
24 names and addresses of its members. No license shall be  
25 issued to any club which has not been in existence for at  
26 least one year prior to its application for a license."

27 3. The commission may issue a 'Special Club' license  
28 to any golf and country club located within ten miles of any  
29 city or town in which class 'A' or 'B' licenses are issued  
30 when such club maintains a regulation nine or eighteen hole  
31 golf course for the use of its members and guests after

32 securing the approval of the board of supervisors. All  
33 provisions of this Act applicable and not inconsistent with  
34 the provisions of this subsection shall apply to the issuance  
35 of such license. The amount of the license fee levied  
36 against the licensee shall be one thousand dollars and  
37 payable to the commission. The commission shall adopt rules  
38 and regulations with respect to the issuance of such  
39 licenses not inconsistent with the provisions of this Act.

40 4. The commission may issue to any dining car company,  
41 sleeping car company, railroad company, or railway company a  
42 'special railway license' which shall authorize the holder  
43 thereof to keep for sale and sell on any dining car, sleeping  
44 car, buffet car or observation car on any train operated by  
45 such applicant from a point outside the state of Iowa into  
46 or across the state, or from a point in the state of Iowa  
47 to a point outside the state, wine and spirits at retail  
48 for consumption in such cars. The application for such license  
49 shall be in such form and contain such information as may be  
50 required by the commission. Each such license shall be good  
51 throughout the state as a state license. Only one such  
52 license shall be required for all cars operated in this  
53 state by such applicant, but a duplicate of such license  
54 shall be posted in each car in which such beverages are sold  
55 and no further license shall be required or tax levied for  
56 the privilege of selling beverages for consumption in such  
57 cars. As a condition precedent to the issuing of any such

58 license the applicant shall give bond to the commission  
59 with good and sufficient sureties thereon to be approved by  
60 the commission conditioned upon the faithful performance of  
61 this Act in the penal sum of one thousand dollars. The  
62 annual tax for such license shall be one thousand dollars  
63 and ten dollars for each duplicate thereof to be paid to  
64 the commission. The commission shall issue duplicates of  
65 such licenses from time to time as applied for by each such  
66 company.

1     Sec. 5. "1. The number of class 'A' and class 'B'  
2 licenses to be issued by any city or town, including cities  
3 under special charter, shall be established by ordinance  
4 but such limitation not to include hotels and clubs.

5     2. No license shall be issued to any person to  
6 operate a business of selling or dispensing wine or spirits  
7 under a class 'A' permit which is located within 300 feet  
8 of any church, school house, character building institution,  
9 normal school, college or university, except hotels and railroads.

1     Sec. 6. "No license shall be issued to any person who  
2 is an official or employee of the city or town. It shall  
3 be unlawful for any such official or employee to own, hold  
4 or have any interest directly or indirectly in any such  
5 license or licensed business.

1     Sec. 7. "Application for license shall be sworn to  
2 and shall be on a form to be prepared by the commission and  
3 shall include the following information:

4 a. The name, age and citizenship and place of residence  
5 of the applicant.

6 b. A description and location of the premises where  
7 the applicant proposes to operate giving a detailed drawing  
8 and floor plan of the premises or portion thereof which the  
9 license is to include.

10 c. The name of the owner of the premises where the  
11 applicant proposes to operate.

12 d. Statement as to whether applicant has ever been a  
13 party to litigation involving violations of any liquor laws.

14 e. A statement as to whether applicant has ever been  
15 convicted of a violation of any state or federal law.

16 f. A statement of the applicant's occupations,  
17 including location thereof during the preceding twenty years.

18 g. A complete disclosure and statement of names of all  
19 persons having any financial interest in said proposed  
20 business, either directly or indirectly, whether secured or  
21 not.

22 The discovery of a false statement in any application  
23 shall be grounds for the revocation of any license issued  
24 pursuant thereto.

1 Sec. 8. "Upon the filing of the application the council  
2 shall fix a date for hearing thereon, which shall be not  
3 earlier than 15 days from the filing of such application,  
4 and the applicant shall give at least ten days public  
5 notice of the time and place of such hearing by publication

6 in a newspaper in the city or town, if no newspaper is  
7 published in said city or town then in some newspaper of  
8 general circulation published in the county in which such  
9 city or town is located. The council shall give full  
10 hearing to all objections to the issuance of any license.

1 Sec. 9. "Said application shall be filed with the  
2 council and be accompanied by a bond in the penal sum of  
3 five thousand dollars providing for a forfeiture thereof  
4 in the event of a revocation of the license by order of  
5 court resulting from a violation of any of the liquor laws  
6 of the state of Iowa, or of any ordinance relating to the  
7 sale of wine and spirits as herein provided. Said bond  
8 shall also be conditioned upon payment by the applicant of  
9 all license fees, taxes or other charges imposed for the  
10 operation of said business.

1 Sec. 10. "The council may either approve or disapprove  
2 any application. No application shall be approved until  
3 the council has made a thorough investigation and finds  
4 that the applicant is of a good moral character and that  
5 the applicant's place of business and the premises within  
6 which he proposes to operate conform to all the laws of  
7 the state of Iowa and all of the health and fire regulations  
8 applicable thereto, and to the ordinances of such city or  
9 town relating thereto.

10 No license shall be issued to an applicant who by his  
11 statement discloses that he has even been convicted of a

12 felony or a violation of any state or federal liquor or  
13 beer law or whose beer or liquor license has ever been revoked.

1 Sec. 11. "Licenses shall be for a period of one year,  
2 commencing on the first day of July and ending on June 30th  
3 following, unless sooner revoked. Provided, however, that  
4 a license may be issued for the remainder of any fiscal  
5 year and the license fee hereinafter provided shall be pro-rated.

6 Before any such license shall be issued a license fee  
7 shall be levied against the licensee in such amount as the  
8 council may determine, but not less than the following  
9 minimum amounts: In cities and towns of ten thousand  
10 population or more for a class 'A' license, one thousand  
11 dollars, and for a class 'B' license, one thousand dollars;  
12 and in cities and towns with a population of less than  
13 ten thousand for a class 'A' license, one thousand dollars, and  
14 for a class 'B' license, one thousand dollars.

15 The license fee levied by the council in each city or  
16 town shall be uniform for each class or license within such  
17 city or town.

1 Sec. 12. "A record of each license as issued shall  
2 be certified by the council to the commission and the  
3 commission shall keep a record of all licenses issued.  
4 The form of license shall be prescribed by the commission  
5 and no license shall be issued except in the form thus  
6 prescribed. The proceeds of the license fees shall go to the  
7 general fund of the cities and towns and be treated in all

8 particulars as other revenue.

1     Sec. 13. "The commission shall sell wine and spirits  
2 at retail to the licensees, under such uniform retail  
3 prices as it may establish. No licensee shall purchase  
4 wine or spirits from any licensee, own or process any wine  
5 or spirits except such as are purchased from the commission.

1     Sec. 14. "There is hereby levied a sales tax of two  
2 per cent of the purchase price on all wine and spirits purchased  
3 by licensees. The commission shall add the amount of said tax  
4 to the purchase price of such wine and spirits and collect the  
5 same when such purchases are made. The amount of said tax  
6 shall be paid by the commission to the general fund of the state.

1     Sec. 15. "In addition to the regulations prescribed  
2 by ordinance, every license shall be subject to the following  
3 regulations:

4     a. No wine or spirits shall be sold except for consumption  
5 upon the premises described in detail in the application of  
6 the licensee.

7     b. All wine and spirits shall be purchased from the  
8 commission and after delivery by the commission shall be  
9 kept by the licensee only at his place of business and must at  
10 all time be kept in the original bottles in which it is received  
11 from the commission, until sold for immediate consumption.  
12 Provided, however, the provisions of this subsection shall not  
13 apply to the holders of special permits issued under section  
14 four (4) of this Act for sales in cars engaged in interstate

15 commerce.

16 c. No licensee shall have in his possession or knowingly  
17 allow any other person to bring upon the premises any wine or  
18 spirits, except as provided in the preceding paragraph.

19 d. No wine or spirits shall be sold on the licensed premises  
20 on Sundays or any of the legal holidays designated in section  
21 five hundred forty-one point eighty-five (541.85), before  
22 four p. m. or on any other day between the hours of one a. m.  
23 and nine a. m.

24 e. No licensee shall sell, dispense, deliver or give in  
25 any manner any wine or spirits to any intoxicated or interdicted  
26 person, nor permit any person to consume on the licensed  
27 premises any wine or spirits except those supplied to such  
28 persons by the licensee in accordance with the terms of this  
29 Act, his license, and any lawful rules or regulations for  
30 the enforcement thereof. No licensee or employe thereof  
31 shall sell or deliver any wine or spirits to any person  
32 who is a minor. Nor shall the licensee permit any minor,  
33 to consume any wine or spirits in his licensed place. No  
34 more than one drink or portion of spirits shall be delivered  
35 to any person at a time, nor in any package, receptacle or  
36 container, except the glass or container containing only  
37 the drink about to be consumed, excepting that wine may be  
38 served by the bottle. No purchaser thereof shall remove  
39 such drink or bottle contents from the licensed premises  
40 where purchased before drinking the same. The licensee

41 shall conduct the place in a quiet orderly manner. No minor,  
42 intoxicated or interdicted person shall knowingly be permitted  
43 to enter, remain, purchase, consume or remove any wine or  
44 spirits on or from the licensed premises.

45 f. Any licensed premises which offer wine or spirits  
46 for sale shall prominently display, at all entrances to the  
47 portion of the premises wherein they are sold, a sign  
48 reading 'No Minors Allowed'.

49 g. Notwithstanding the provisions of the preceding  
50 subsection, regularly licensed hotels may permit their rooms  
51 to be occupied by minors, during which occupancy any such  
52 room so occupied shall be excluded from the licensed  
53 premises and it shall be unlawful for the licensee to serve  
54 wine and spirits therein.

55 h. No gambling and no cards, dice, billiards, pool  
56 tables, pin ball, slot machines, punch boards or other  
57 devices commonly used in games of chance shall be permitted  
58 upon the premises for which the license is issued and which  
59 premises are open to the public.

60 i. No licensee shall carry on the business of selling  
61 wine or spirits unless his license is prominently and  
62 publicly displayed in the place of business.

63 j. No license shall be assigned or transferred.

64 k. No class 'A' license shall be issued for premises  
65 where food is sold or consumed except in regularly licensed  
66 hotels having not less than fifteen guest rooms and regularly

67 serving meals to the public.

68 l. Booths, screens, partitions or any impediment

69 which obstructs a full view of the interior of a place

70 operating under class 'A' license are hereby prohibited

71 except as to dining rooms of hotels operating under such license.

72 m. Premises to be licensed under class 'A' licenses

73 other than the dining room of hotels operating under such

74 license, shall afford a clear and unobstructed view into

75 the interior of the place where wines and spirits are sold.

76 n. No licensee under a class 'A' license shall permit

77 public ingress or egress to the licensed premises except

78 by a street entrance or from the lobby of a hotel.

1 Sec. 16. "It shall be the duty of all peace officers

2 to investigate any violations of the provisions of this Act

3 and any member of the commission or any representative or

4 inspector so designated by the commission shall have the

5 power of peace officers for the purpose of enforcing this Act.

1 Sec. 17. "The council shall make a thorough investigation

2 of any alleged violation for the purpose of revoking any

3 license if there is reasonable evidence that the holder

4 thereof shall have violated any of the provisions of this Act

5 or of any ordinances passed pursuant to the provisions of

6 this Act.

1 Sec. 18. "Any citizen of a city or town having information

2 of any violation by the holder of a license in such city or

3 town may and any peace officer having such information shall

4 file a complaint with the district court in the county in which  
5 city or town is located. Such complaint shall state the facts  
6 in relation to the alleged violation, shall be entitled in the  
7 name of the state of Iowa by relation, and shall be sworn to.  
8 It shall pray for an injunction against the violator and for  
9 forfeiture of his bond. A copy of such complaint shall be filed  
10 promptly with the attorney general of the state who shall thereupon  
11 cause an investigation to be made at once and report the findings  
12 thereof to the district court of the county where the alleged  
13 violation occurred. When such complaint is filed the presiding  
14 judge or any other judge in vacation shall forthwith cite the  
15 alleged violator to appear in said court and show cause why  
16 the injunction should not be issued and the bond revoked. Such  
17 alleged violator shall be required to appear at such time as  
18 the court or judge shall determine, but the time of such hearing  
19 shall not be unnecessarily delayed and in no event shall the  
20 time of such hearing be fixed for longer than thirty days from  
21 the time of the filing of such complaint. At the time of issuing  
22 the order citing such alleged violator for hearing the court may  
23 if the facts and circumstances warrant, temporarily enjoin the  
24 alleged violator from carrying on the licensed business,  
25 without requiring a bond, and direct the peace officer serving  
26 the order to take possession of the alleged violator's license  
27 and return the same to the clerk of the district court pending  
28 the outcome of the hearing. The proceedings shall be in equity  
29 and upon such hearing if the court finds that the licensee has

30 been guilty of a violation shall declare the same to be a  
31 nuisance and enter an order permanently enjoining the licensee  
32 from engaging in the licensed business, and shall forfeit the  
33 bond of the licensee and shall revoke the license. The clerk  
34 of the court shall forthwith certify a copy of said decree to  
35 the city or town council, who shall immediately revoke the  
36 defendant's license. An appeal from the ruling of the district  
37 court may be taken to the supreme court as in other equitable  
38 proceedings and pending such appeal the said license shall  
39 remain revoked and there shall be no stay of the order of  
40 injunction.

41 The proceedings provided in this section shall not be  
42 any bar to criminal action for violation of statutes or  
43 ordinances; nor shall the provisions of this section affect  
44 the right of a city or town to proceed against the bond of  
45 a licensee for non-payment of any taxes or license fees owing  
46 under the provisions of this Act.

1 Sec. 19. "When the court enters an order for a  
2 permanent injunction the court shall also enter a judgment  
3 decreeing a forfeiture of the stock of wine and spirits in  
4 the possession of the licensee and shall direct the  
5 disposition thereof as provided in section seven hundred  
6 fifty-one point thirty-one (751.31). In the event of an  
7 appeal the forfeiture shall be stayed pending such appeal.

1 Sec. 20. "Cities and towns may by ordinance adopt  
2 such regulations with respect to carrying on the business

3 of selling wine and spirits at retail under license as are  
4 in the interest of temperance and the public welfare, and  
5 are not inconsistent with state law.

1 Sec. 21. "No valid mortgage, pledge or other lien of  
2 any kind or character may be placed upon any stock of  
3 intoxicating liquor by any licensee, and the voluntary  
4 placing of any lien or an unrevealed transfer of any of the  
5 property, fixtures or equipment of a licensee used by him  
6 in connection with said licensed business shall be grounds  
7 for the immediate revocation of his license.

1 Sec. 22. "The provisions of section one hundred  
2 twenty-four point thirty-one (124.31), Code 1950, shall not  
3 apply to licensees under this Act.

1 Sec. 23. "When any city or town by virtue of the  
2 authority of the provisions of this Act shall have adopted  
3 ordinances and issued licenses as herein provided, and at a  
4 subsequent election called and held as herein provided,  
5 majority of the votes cast on the proposition are opposed  
6 thereto, then all such licenses issued by such city or town  
7 for the sale at retail of wines and spirits for consumption  
8 on the premises where sold shall expire on the June 30th  
9 following such election, and all ordinances adopted by the  
10 city or town pursuant to the provisions of section two (2)  
11 hereof shall be abrogated as of like date and shall be repealed  
12 by the city council.

1 Sec. 24. "Such election shall be called and held in any

2 city, town or county in the state when there is addressed to  
3 and filed with the city council, or with the county auditor  
4 in case of a county, a petition signed by at least twenty-five  
5 per cent (25%) of the electors of said city, town or county  
6 who voted at the last general election preceding the filing  
7 of such petition; and such petition may consist of the aggregate  
8 of a number of separate petitions, which, however, when filed  
9 shall constitute the petition herein referred to. Such petition  
10 must be filed with the city or town clerk or county auditor  
11 at least sixty (60) days prior to the date of the next succeeding  
12 general election at which the proposition is to be submitted.

1 Sec. 25. "Upon the filing of such petition the city or  
2 town council or county auditor shall proceed at once to canvass  
3 the same and determine the sufficiency thereof, which sufficiency  
4 shall be determined within fifteen (15) days after the filing,  
5 and shall be entered of record in the minutes of the council.  
6 If such petition is found sufficient the council or county board  
7 of supervisors shall forthwith order and provide by proper  
8 procedure for the holding of such election and shall provide  
9 ballots therefor. The ballots shall contain the following  
10 proposition and no other: 'shall wine and spirits be sold at  
11 retail for consumption on the premises where sold in (name of  
12 city, town or county) ?'. Opposite and to the right of such  
13 proposal as it appears on the ballot shall be place two (2)  
14 squares, one above the other, and to the left of the upper  
15 square shall be printed the word 'Yes', and to the left of

16 the lower square the word 'No', and in casting his vote upon  
17 such proposal the voter favoring such proposition shall place  
18 a cross in the square opposite the word 'Yes' and the voter  
19 opposing such proposition shall place a cross in the square  
20 opposite the word 'No'. The city or town council or county  
21 board of supervisors shall provide funds to meet the expenses  
22 of such election.

1 Sec. 26. "The ballots cast on said proposal at such election  
2 shall be counted and the results certified as required by the  
3 laws applicable to such general election, and the ballots at  
4 once returned to such clerk or auditor, as the case may be, who  
5 shall canvass same and certify the result, and make a permanent  
6 record thereof in his office, which certificate and record shall  
7 be completed within thirty (30) days after such election.

1 Sec. 27. "The results of such election may be contested  
2 or appealed from as in case of a general election, and pending  
3 such contest or appeal no action shall be taken by the city  
4 or town council in relation to the adoption of ordinances or  
5 the granting of licenses.

1 Sec. 28. "If a majority of the votes cast on such  
2 proposition at such election are in favor of the sale at  
3 retail of wines and spirits for consumption on the premises  
4 where sold in such city, town or county, then the city or  
5 town shall continue to exercise the authority given under this  
6 chapter.

1 Sec. 29. "No election as herein provided shall be held

2 in and for such city, town or county more often than once in  
 3 four years, and then only on general city, town or county  
 4 election dates.”

1 Sec. 30. This Act shall apply to special charter cities.

1 Sec. 31. Section one hundred twenty-three point twenty-seven  
 2 (123.27), Code 1950, is hereby amended by striking the word  
 3 “two” (2) in line one (1) of subsection one (1) and inserting  
 4 in lieu thereof the word “three” (3) and by adding the following  
 5 new subparagraph “c. Retail permits.”

1 Sec. 32. Section one hundred twenty-three point twenty-seven  
 2 (123.27), Code 1950, is further amended by adding the following:

3 A ‘retail permit’ in form prescribed by the commission,  
 4 and subject to its issuance and/or use to such rules and  
 5 regulations as the commission may adopt, shall be issued to  
 6 any person, firm or corporation holding a valid license for  
 7 the sale of wine and spirits for consumption on the premises  
 8 and issued by any city or town under a valid ordinance.”

1 Sec. 33. Section one hundred twenty-three point twenty-eight  
 2 (123.28), Code 1950, is hereby amended by adding the following  
 3 new paragraph:

4 “For a ‘retail permit’ under section one hundred twenty-three  
 5 point twenty-seven (123.27), the fee shall be ten dollars (\$10.00)  
 6 per year.”

#### EXPLANATION OF H. F. 282

This Act provides for the adoption of a practical law for the sale of wines and spirits in premises licensed by cities and towns; for a method whereby certain club houses outside their corporate limits may be licensed by the liquor commission; for the licensing of railroad dining cars by the liquor commission; for a system of local referendum and in general for placing the control of liquor in hands close enough to the people that they may themselves have some voice in the matter.

All to the end that present prevalent and illegal sales of liquor by the drink may be regulated and controlled.