

January 10, 1951.
Passed on File.

Senate File 3
By LYNES, KNUDSON, VEST, ZASTROW,
O'MALLEY, JACOBSON, HATTERY, BERG.

Passed Senate, Date.....
Vote: Ayes..... Nays.....
Passed House, 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.

SENATE FILE 3

(AS PASSED THE SENATE)

February 7, 1951.

Passed on File.

By LYNES, KNUDSON, VEST, ZASTROW,
O'MALLEY, JACOBSON, HATTERY, BERG.

Passed Senate, Date.....

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

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- 1 Section 1. For the purpose of this act, the words, terms,
- 2 and phrases defined in this section shall have the meanings
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- 4 1. "Gambling devices" means roulette wheels, klondike tables,
- 5 poker tables, punch boards, faro layouts, keno layouts, slot
- 6 machines, any ticket, sheet, or writing of any kind used or
- 7 designed to be used for gambling purposes, and all machines
- 8 and devices used for gambling or with an element of chance
- 9 attending operation, and all machines and devices of any nature
- 10 whatsoever adapted, devised and designed for the purpose of
- 11 gambling.
- 12 2. "Person" means an individual, a copartnership, an
- 13 association, corporation, or any other entity or organization.

14 3. "Municipality" means any county, city, village,
15 township or town.

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

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

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

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

31 8. "Issuing authority" and "authority issuing the license"
32 mean and include the officer, board, bureau, department,
33 commission, or agency of the state, or of any of its municipalities,
34 by whom any license is issued and include the councils and
35 governing bodies 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
3 license 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 licensé 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
5 to show cause directed to the licensee of the premises, stating
6 the ground upon which the proceeding is based and requiring
7 him to appear and show cause at a time and place within the
8 county in which the licensed premises are located, not less than
9 ten days after the date of the order, why his license should
10 not be revoked. The order to show cause shall be served upon

11 the licensee as an original notice, or by registered mail,
12 not less than eight days before the date fixed for the hearing
13 thereof. A copy of the order shall forthwith be mailed to the
14 owner of the premises, as shown by the records in the office
15 of the County Recorder at his last known post office address.
16 A copy of the order shall at the same time be mailed to any
17 other issuing authority, of which the authority issuing the
18 order to show cause has knowledge, by which other licenses
19 to that licensee may have been issued, and any such other
20 authority may participate in the revocation proceedings after
21 notifying the licensee and the officer or authority holding
22 the hearing of its intention so to do on or before the date of
23 hearing, and after the hearing take such action as it could
24 have taken had it instituted the revocation proceedings in
25 the first instance.

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

7 A licensee whose license has been revoked or any owner of
8 licensed premises aggrieved by an order of an issuing authority,
9 may within fifteen days after the date of the order of the
10 issuing authority file an application for writ of certiorari
11 in the District Court in and for the county where the business

12 of the licensee is located.

13 Unless the licensee has filed an application for writ of
14 certiorari in the District Court, revocation shall date from
15 the 16th day following the date of the order of the issuing
16 authority. In the event the licensee has filed an application
17 for writ of certiorari in the District Court revocation shall
18 date from the 31st day following entry of the order of the
19 District Court, if action by the District Court is adverse
20 to the licensee.

21 If the licensee appeals to the Supreme Court of Iowa, or
22 applies for writ of certiorari to such court, revocation shall
23 not be effective pending determination by the Supreme Court of
24 Iowa, provided the licensee shall post bond with the Clerk of
25 the District Court in an amount fixed by the clerk of the court
26 in the district wherein the business is licensed, conditioned
27 to pay all costs adjudged against him on the appeal, or the
28 hearing on a writ, if the action of the district court is
29 affirmed. Revocation shall date from the day following final
30 disposition of such court.

31 No new license or licensee shall be granted the licensee,
32 nor for the same business if it is established that the owner
33 had actual knowledge of the existence of the gambling devices
34 resulting in the license revocation, upon the same premises,
35 for the period of one year following the date of revocation.

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
5 is 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 Clarksville Star, a newspaper published at Clarksville, Iowa,
4 and in The Cedar Rapids Gazette, a newspaper published at
5 Cedar Rapids, Iowa.