

January 17, 1963.  
Safety and Law Enforcement.

**House File 7**  
By DIETZ, CAMP, CARSTENSEN,  
COFFMAN, KNOWLES, HOUGEN,  
MENSING, KIBBIE, MEYER,  
DUFFY, DENMAN and REPPERT.

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

## A BILL FOR

An Act to amend chapters one hundred twenty-three (123) and one hundred twenty-four (124), Code 1962, and to provide for the retail sale of products sold by Iowa state liquor stores.

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

1 Section 1. Section one hundred twenty-four point thirty-one  
2 (124.31), Code 1962, is hereby repealed.

1 Sec. 2. Section one hundred twenty-three point five (123.5),  
2 Code 1962, is hereby amended by adding thereto the following:

3 "Liquor licensee" shall mean any person, firm, corporation or  
4 association holding a license to sell alcoholic beverages (ex-  
5 ceeding four percent by weight) by the drink, and "liquor license"  
6 shall mean such a license.

7 "Club" shall mean an association of persons incorporated under  
8 the provisions of chapter five hundred four (504) of the Code as  
9 a corporation not for pecuniary profit for the promotion of some  
10 common object, owning, hiring or leasing a building or space in a  
11 building suitable and adequate for the reasonable use and accom-  
12 modation of its members and their guests, and provided with suit-  
13 able and adequate kitchen and dining room space and equipment,  
14 implements and facilities, and employing a sufficient number of  
15 servants or employees for cooking, preparing and serving food  
16 and meals for its members and their guests. Such club obtaining  
17 a license shall file with the issuing authority, annually, not

18 later than December 1 of each year, a list of the names and ad-  
19 dresses of its members.

20 "Golf and country club" shall mean a club, as defined under  
21 "club", which regularly maintains a golf course consisting of  
22 not fewer than six holes for the use of its members and guests.

23 "Hotel" shall mean a business established and maintained for  
24 the purpose of serving the public, furnishing lodging to tran-  
25 sient guests, having available not fewer than fifteen rooms for  
26 such purpose, and holding a valid hotel license issued by the  
27 state of Iowa.

28 "Issuing authority" shall mean the council of incorporated  
29 cities and towns in the case of such cities and towns; the board  
30 of supervisors in the case of unincorporated villages and areas  
31 outside such incorporated cities and towns; and the Iowa liquor  
32 commission in the case of a dining-car company, sleeping car  
33 company, or railway company.

1 Sec. 3. Section one hundred twenty-three point twenty-seven  
2 (123.27), Code 1962, is hereby amended as follows:

3 1. By striking the word "two" from subsection one (1), line  
4 one (1) and inserting in lieu thereof the word "three".

5 2. By adding the following new paragraph:

6 "c. Retail permits."

7 3. By adding at the end of subsection two (2) the following:

8 "d. A 'retail permit' in form prescribed by the commission  
9 and subject to its issuance and for use under such rules and regu-  
10 lations as the commission may adopt, shall be issued to any per-  
11 son, firm or corporation holding a valid liquor license."

1 Sec. 4. Section one hundred twenty-three point twenty-eight  
2 (123.28), Code 1962, is hereby amended by adding thereto the fol-

3 lowing:

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

1 Sec. 5. If a petition shall be signed by the electors of any  
2 county in such number as shall equal twenty-five percent of the  
3 votes cast in such county for governor at the last general elec-  
4 tion, which shall request that the question of licensing the sale  
5 of alcoholic beverages (exceeding four percent by weight) by the  
6 drink be submitted to the electors thereof at a special election  
7 to be called for that purpose, as hereinafter provided, and shall  
8 be filed with the board of supervisors, the board shall cause  
9 such election to be held and shall cause to be published once each  
10 week for four (4) weeks in succession in a newspaper of general  
11 circulation in such county a notice of such special election to  
12 be held not less than fifteen (15) nor more than thirty (30) days  
13 from the date of the last publication. The notice shall state  
14 the proposition to be submitted to the electors at such special  
15 election. Each sheet of the petition shall contain not more than  
16 thirty (30) names of electors with their personal signatures, ad-  
17 dresses, and the date of signing. If residing within a city or  
18 town where the electors are required to be registered, the signa-  
19 ture shall be the same as it appears upon the registration rec-  
20 ords. At the top of each sheet shall be stated the proposition  
21 to be submitted. No signature on such petition shall be valid  
22 unless appended to the petition within the last ninety (90) days  
23 prior to the date of filing the petition. At the bottom of each  
24 sheet of such petition shall be the affidavit of the person who  
25 circulated same, stating that the signatures on the petition

26 were made in his presence, that he has reasonable cause to believe  
27 that they are qualified electors of the particular county, and  
28 that they are the persons they represent themselves to be. Who-  
29 ever signs any such petition, knowing that he is not a qualified  
30 elector in the county where such petition is made, or who aids  
31 or abets any other person in doing any of the acts mentioned,  
32 or whoever bribes, gives or pay any money or thing of value to  
33 any person directly or indirectly, to induce him to sign such  
34 petition, shall upon conviction thereof be punished by a fine of  
35 not exceeding three hundred dollars (\$300.00) or by imprisonment  
36 in the county jail not exceeding ninety (90) days or by both  
37 such fine and imprisonment, in the discretion of the court.

1 Sec. 6. Upon the ballot the proposition shall be stated as  
2 follows:

3 "Shall the retail sale of alcoholic beverages (exceeding four  
4 percent by weight) by the drink be prohibited in (here insert the  
5 name of the county)?"

6  YES

7  NO

1 Sec. 7. The provisions of the statutes of this state relating  
2 to election of officers, voting places, election apparatus and  
3 blanks, preparation and form of ballots, information to voters,  
4 delivery of ballots, calling of elections, conduct of elections.  
5 manner of voting, counting of votes, records and certificates  
6 of election, and recount of votes, so far as applicable, shall  
7 apply to voting on the proposition under the provisions of this  
8 Act. If a majority of the ballots cast are "YES", the board shall  
9 not at the expiration of issued licenses renew such licenses as  
10 permitted by the provisions of this Act.

1     Sec. 8. No license shall be issued to any business in any  
2 city or town unless the location thereof is as follows:

3     1. The cities and towns having a zoning ordinance, the loca-  
4 tion shall be in an area zoned for retail business.

5     2. In cities and towns having no zoning ordinance, the loca-  
6 tion shall be in an area where seventy-five percent or more of  
7 the frontage contiguous to the street and on each side thereof  
8 for a distance of three hundred (300) feet or more, is occupied  
9 by buildings used for business purposes.

10    3. Notwithstanding the provisions of subsections one (1) and  
11 two (2), no liquor license shall be issued to any business, ex-  
12 cept a hotel, which is located within three hundred (300) feet  
13 of the lot line of any church, schoolhouse, character-building  
14 institution, normal school, college or university.

15    4. The provisions of this section shall not prohibit the sale  
16 of alcoholic beverages (exceeding four percent by weight) by the  
17 drink in any railway car licensed under this Act.

1     Sec. 9. Except as hereinafter provided, power is hereby  
2 granted to councils of incorporated cities and towns to issue  
3 licenses within their respective limits and to revoke the same  
4 for causes hereinafter set forth or in the event the place of  
5 business of the license holder is conducted in a disorderly man-  
6 ner.

1     Sec. 10. Except as hereinafter provided, power is hereby  
2 granted to boards of supervisors to issue licenses in their re-  
3 spective counties outside the incorporated limits of cities or  
4 towns and to revoke the same for causes hereinafter set forth  
5 or in the event the place of business of the license holder is  
6 conducted in a disorderly manner.

1     Sec. 11. No license shall be issued to any club whose offi-  
2     cers and board of directors are not determined by an annual elec-  
3     tion at which each member is entitled to an equal vote. If these  
4     conditions are not fulfilled at any election subsequent to the  
5     issuance of a license, the license shall not be renewed until  
6     such time as an election has been held which fulfills the re-  
7     quirements of this section.

1     Sec. 12. No license shall be issued to any club whose manager  
2     holds office except by appointment by the board of directors of  
3     the club, nor if such manager receives any compensation other than  
4     a fixed salary in no way contingent upon the receipts or profits  
5     of the club. The license of any club which violates the provi-  
6     sions of this section shall be revoked.

1     Sec. 13. No license shall be issued to any club which does  
2     not keep accurate and complete books and records of all receipts  
3     and disbursements, and in the event a license is issued to any  
4     club which thereafter fails or neglects to keep such books and  
5     records, such license shall be revoked upon a showing of such  
6     failure or neglect.

1     Sec. 14. No license shall be issued to any club which has not  
2     been in existence for a period of one (1) year.

1     Sec. 15. The fee for a license issued by any city or town or  
2     board of supervisors under this Act shall be as follows:

3     1. Where licensee serves food, permits dancing or furnishes  
4     entertainment such license shall be one thousand dollars per  
5     annum.

6     2. Where licensee does not serve food, permit dancing or  
7     furnish entertainment such license shall be five hundred dollars  
8     per annum.

1     Sec. 16. Under the provisions of this Act, the commission may  
2 issue to any dining-car company, sleeping-car company, railroad  
3 company or railway company a license which shall authorize the  
4 holder thereof to keep for sale and sell on any dining car,  
5 sleeping car, buffet car or observation car on any train operated  
6 by such applicant from a point in the state of Iowa to a point  
7 outside the state, alcoholic beverages (exceeding four percent by  
8 weight) at retail for consumption in such cars. The application  
9 for such license shall be in such form and contain such informa-  
10 tion as may be required by the commission. Each such license  
11 shall be good throughout the state as a state license. Only one  
12 such license shall be required for all cars operated in this  
13 state by such applicant, but a duplicate of such license shall  
14 be posted in each car in which alcoholic beverages are sold. As  
15 a condition precedent to the issuing of any such license, the ap-  
16 plicant shall give bond to the commission with good and suffi-  
17 cient sureties thereon to be approved by the commission condi-  
18 tioned upon the faithful performance of this Act, in the penal sum  
19 of five thousand dollars (\$5000.00). In addition to the annual  
20 license fee of one thousand dollars (\$1000.00), there shall be  
21 paid to the commission a fee of ten dollars (\$10.00) for each  
22 duplicate thereof. The commission shall issue duplicates of such  
23 licenses from time to time as applied for by each such company.

1     Sec. 17. No license shall be issued to any business in which  
2 any official or employee of the issuing city or town, or any  
3 member of his immediate family, is an officer, employee, owner,  
4 partner or associate of any kind, or stockholder. It shall be  
5 unlawful for any such official or employee or immediate member  
6 of his family to own, hold or have any interest, directly or

7 indirectly, in any liquor licensee's business.

1 Sec. 18. Applications for liquor licenses shall be sworn to  
2 and shall be on a form prepared by the commission and shall in-  
3 clude the following information:

4 1. The name, age, citizenship and place of residence of the  
5 applicant in the case of individuals. In the case of applicants  
6 other than individuals, the name and business address of the  
7 applicant shall be given.

8 2. A description and location of the premises where the appli-  
9 cant proposes to operate, with a detailed drawing and floor plan  
10 of the premises or portion thereof which the license is to in-  
11 clude.

12 3. The name of the owner of the premises where the applicant  
13 proposes to operate.

14 4. A statement of the applicant's occupations, including  
15 location thereof, during the preceding twenty (20) years, in the  
16 case of individuals.

17 5. A complete disclosure and statement of names of all per-  
18 sons having any financial interest in said proposed business,  
19 either directly or indirectly, whether secured or not.

1 Sec. 19. In the event, after issuance of a liquor license,  
2 it is found that the application therefor contained any false  
3 statement, such license shall be revoked.

1 Sec. 20. Upon the filing of the application, the issuing  
2 authority shall fix a date for hearing thereon, which shall not  
3 be earlier than fifteen (15) days from the filing of such appli-  
4 cation, and shall give at least ten (10) days' public notice of  
5 the time and place of such hearing by publication in a newspaper  
6 in the city or town. If no newspaper is published in said city

7 or town, then in some newspaper of general circulation published  
8 in the county in which such city or town is located.

1 Sec. 21. The application shall be filed with the issuing  
2 authority accompanied by a corporate surety bond in the penal  
3 sum of five thousand dollars (\$5000.00) providing for a for-  
4 feiture thereof in the event of a revocation of the license  
5 resulting from a violation of liquor or gambling laws of the  
6 state of Iowa, the provisions of this Act, or of any rule or  
7 regulation issued pursuant to this Act. Said bond shall also  
8 be conditioned upon payment by the applicant of all license fees,  
9 taxes or other charges imposed for the operation of said busi-  
10 ness.

1 Sec. 22. The issuing authority may either approve or disap-  
2 prove any application. No application shall be approved until  
3 the issuing authority has made a thorough investigation and finds  
4 that the applicant, if an individual, is of good moral character,  
5 and if other than an individual, possesses a good reputation,  
6 and that the applicant's place of business conforms to all laws  
7 of the state of Iowa, all health and fire regulations applicable  
8 thereto, and all other applicable local ordinances, rules, and  
9 regulations.

1 Sec. 23. After approval of an application for a license, the  
2 issuing authority shall forward the application to the Iowa li-  
3 quor control commission, and no license shall be issued unless  
4 the commission has approved the application.

1 Sec. 24. No license shall be issued to an applicant who has  
2 been convicted of a felony, and a license shall be revoked in the  
3 event a licensee is convicted of a felony.

1 Sec. 25. Licenses shall be for a period of one (1) year,

2 commencing on the first day of July and ending on June 30 fol-  
3 lowing, unless sooner revoked. Except that a license may be  
4 issued for a portion of a year, and the license fees herein pro-  
5 vided shall be prorated.

1 Sec. 26. The issuance of a license shall be certified in  
2 writing by the issuing authority to the commission, except where  
3 the commission itself issues such license, and the commission  
4 shall keep a record of all licenses issued. The form of license  
5 shall be prescribed by the commission.

1 Sec. 27. The commission shall sell alcoholic beverages at  
2 wholesale to liquor licensees. Such wholesale price shall be  
3 five percent below Iowa liquor store retail prices. There shall  
4 be no sales tax on the wholesale purchase price of alcoholic  
5 beverages purchased by licensees, but there shall be a ten per-  
6 cent sales tax on each sale of alcoholic beverages by the licen-  
7 see, which tax shall be paid to the state tax commission for the  
8 general fund of the state of Iowa.

9 The state tax commission, under authority granted by chapter  
10 four hundred twenty-two (422) of the Code, shall have the power  
11 to prescribe rules and regulations not inconsistent with this  
12 provision for an efficient method of collecting said tax.

1 Sec. 28. In addition to ordinances, rules and regulations  
2 prescribed by the issuing authority, every licensee shall be sub-  
3 ject to the following:

4 1. No alcoholic beverages shall be sold except for consumption  
5 upon the premises described in detail in the application of the  
6 licensee. No such licensee shall sell any alcoholic beverages  
7 by the bottle.

8     2. All alcoholic beverages shall be purchased from the com-  
9 mission and after delivery by the commission shall be kept by  
10 the licensee only at the place of business and must at all times  
11 be kept in the original containers in which it is received from  
12 the commission, until sold for immediate consumption. Except  
13 that the provisions of this subsection shall not apply to licen-  
14 sees whose license has been issued by the commission under the  
15 provisions of section sixteen (16) of this Act.

16     3. No licensee shall sell, dispense, deliver or give in any  
17 manner any alcoholic beverage to any intoxicated or interdicted  
18 person, nor permit any person to consume on the licensed premises  
19 any alcoholic beverage except those supplied to such persons by  
20 the licensee in accordance with the provisions of this Act, his  
21 license, and any ordinances, rules or regulations for the enforce-  
22 ment thereof. No licensee or employee thereof shall sell or de-  
23 liver any alcoholic beverages to any person who is under twenty-  
24 one years of age, nor permit any such person to consume any al-  
25 coholic beverages on the licensed premises. No more than one (1)  
26 drink or portion of spirits shall be delivered to any person at  
27 any one time, nor in any package, receptacle or container, except  
28 the glass or container containing only the drink to be consumed,  
29 excepting that wine may be served by the bottle. No purchaser  
30 thereof shall remove such drink or bottle contents from the li-  
31 censed premises where purchased before drinking the same. The  
32 licensee shall conduct the business in a quiet orderly manner.  
33 No person under twenty-one years of age, intoxicated or inter-  
34 dicted person shall knowingly be permitted to purchase, consume  
35 or remove any alcoholic beverages on or from the licensed prem-  
36 ises.

37 4. No licensee shall carry on the business of selling alco-  
38 holic beverages unless his license is prominently displayed in  
39 the place of business.

40 5. No license shall be assigned or transferred.

41 6. Premises, other than the dining-room of a hotel, shall  
42 afford a clear and unobstructed view into the interior of the  
43 place where alcoholic beverages are sold.

1 Sec. 29. The issuing authority shall make an investigation  
2 of any alleged violation for the purpose of revoking any license  
3 if there is reasonable evidence that the holder thereof shall  
4 have violated any of the provisions of this Act or of any appli-  
5 cable ordinance, rule or regulation.

1 Sec. 30. It shall be the duty of all peace officers to inves-  
2 tigate any alleged violations of the provisions of this Act, or  
3 any representative or inspector so designated by the state liquor  
4 commission for this purpose.

1 Sec. 31. Any citizen of a city or town or county having in-  
2 formation of any violation by the holder of a license in such  
3 city or town or county may, and any peace officer having such in-  
4 formation shall, file a complaint with the appropriate issuing  
5 authority. A copy of such complaint shall be filed with the  
6 county attorney who shall thereupon cause an investigation to be  
7 made and report the findings thereof to the appropriate issuing  
8 authority. If the county attorney finds that a violation has oc-  
9 curred, the appropriate issuing authority shall cite the alleged  
10 violator to appear at a hearing and show cause why the license  
11 should not be revoked and the bond forfeited. Such alleged vi-  
12 olator shall be required to appear at such time as said issuing  
13 authority shall determine and not more than thirty (30) days a-

14 ter such citation. At the time of citing such alleged violator,  
15 the issuing authority may, if the facts and circumstances warrant,  
16 temporarily suspend the license of the alleged violator and di-  
17 rect the peace officer serving the order to take possession of  
18 the alleged violator's license and return the same to the issuing  
19 authority pending the outcome of the hearing. Following the  
20 hearing, the issuing authority shall determine whether the license  
21 shall be revoked and the bond forfeited. In the event such de-  
22 termination is adverse to the licensee, the determination shall  
23 be reviewed by the commission, which shall grant an appropriate  
24 hearing to the alleged violator. The determination of the com-  
25 mission shall be final and may be appealed from only by filing an  
26 appropriate action in the district court.

1     Sec. 32. The revocation proceedings provided for in this Act  
2 shall not be a bar to any criminal prosecution, nor shall such  
3 proceedings affect the right of a city or town or board of super-  
4 visors to proceed against the bond of a licensee for nonpayment  
5 of any taxes or license fees owing under the provisions of this  
6 Act.

1     Sec. 33. Notwithstanding the powers conferred by other chap-  
2 ters of the Code to the issuing authority, the power to pass  
3 ordinances to regulate the opening and closing hours of the li-  
4 cense holder's place of business shall be conferred upon the  
5 issuing authorities except in the case covered by section six-  
6 teen (16) of this Act.

1     Sec. 34. In the event that the result of the special elec-  
2 tion does not prohibit the sale of alcoholic beverages by the  
3 drink, no other special election on the proposition may be held  
4 for a period of two (2) years. In the event that the result of

5 said special election does prohibit the sale of alcoholic bever-  
 6 ages by the drink then all licenses, ordinances, rules, and  
 7 regulations theretofore issued under the provisions of this Act  
 8 shall be terminated on June 30 following such election.

1 Sec. 35. Section four hundred twenty-two point forty-three  
 2 (422.43), Code 1962, is amended by inserting at the end of line  
 3 six (6) the following:

4 "and except on the sale of alcoholic beverages by an author-  
 5 ized licensee, which tax shall be as otherwise provided by law".

1 Sec. 36. Any person who violates any of the provisions of  
 2 this Act or who makes a false statement concerning a material  
 3 fact in submitting an application for a license or for a renewal  
 4 of a license, or gives false testimony at any hearing concerning  
 5 the revocation of a license shall be punished by a fine of not  
 6 less than three hundred dollars (\$300.00) and not more than one  
 7 thousand dollars (\$1000.00), or by imprisonment in the county  
 8 jail for not less than three (3) months nor more than one (1)  
 9 year, or by both such fine and imprisonment.

1 Sec. 37. This Act being deemed of immediate importance shall  
 2 be in full force and effect upon passage and publication in the  
 3 \_\_\_\_\_, a newspaper published at  
 4 \_\_\_\_\_, Iowa, and in the \_\_\_\_\_,  
 5 a newspaper published at \_\_\_\_\_, Iowa.

EXPLANATION OF HOUSE FILE 7

The purpose of this bill is to create a responsibility in the state of Iowa for the actual enforcement of the liquor control act, as well as to acquire revenue now lost to the state.

The bill recognizes that the problems of juvenile delinquency are being multiplied by the present law, which encourages disrespect and violation merely by driving over a state line into a neighboring state. It recognizes further that the problem of the drunken driver, which our governor has stressed so emphatically, will be greatly lessened by a law which will insure revocation of an expensive license if drinks are sold beyond a person's capacity; whereas, under the present law, the tendency is to consume an entire bottle purchased at the state-owned liquor store or to consume beyond one's capacity in a neighboring state.

The bill recognizes that decisions with respect to the issues of liquor-by-the-drink, better law enforcement, reduced juvenile delinquency and reduced drunken driving should be left to local governing bodies elected by the people—city council and county board of supervisors. Ultimate approval of licenses is vested in the state liquor control commission, thus insuring uniformity throughout the state.

Technical provisions of the bill relate solely to the licensing and retail sale of products sold by our Iowa state liquor stores.