

February 5, 1963.  
Safety and Law  
Enforcement.

**House File 164**

By DUFFY, BREITBACH, MEYER, MURPHY,  
MILLER of Des Moines, MAHAN, LOSS, DIETZ,  
KNOWLES, ELY and CAMP.

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

## A BILL FOR

An Act providing for the licensing and strict control of the retail sale of products sold by state liquor stores and designed to eliminate bootlegging, and to provide revenue from the sale thereof.

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

1 Section 1. Section one hundred twenty-three point one  
2 (123.1), Code 1962, is hereby amended by striking all after the  
3 word "this" in line thirteen (13) and inserting in lieu thereof  
4 the word "title".

1 Sec. 2. Section one hundred twenty-three point five (123.5),  
2 Code 1962, is hereby amended as follows:

3 1. By inserting after the word "liquor" in line one (1)  
4 of subsection five (5) the words "or 'alcoholic beverage'".

5 2. By inserting after the word "License" in line one (1)  
6 of subsection nine (9) the following: "or liquor control  
7 license".

8 3. By adding the following subsections:

9 "Air common carrier" means a person engaged in transporting  
10 passengers for hire in interstate or foreign commerce by air-  
11 craft and operating regularly scheduled flights under a certifi-  
12 cate of public convenience issued by the civil aeronautics  
13 board.

14 "Club" means a corporation or association of individuals

15 organized in good faith for social, recreational, benevolent,  
16 charitable, political, patriotic, or athletic purposes, but  
17 not for private gain, which is the owner, lessor or occupant  
18 of a permanent building, or part thereof, membership in which  
19 entails the prepayment of regular dues, and which has been in  
20 continuous operation as a club for not less than two (2) years  
21 prior to making application for a license under this Act.

22 "Commercial establishment" means a place of business which  
23 is at all times equipped with sufficient tables and seats to  
24 accommodate twenty-five (25) persons at one time, is located  
25 in a business district or an area now or hereafter zoned as a  
26 business district, and the licensed premises of which conform  
27 to the standards and specifications of the commission.

28 "Licensed premises" or "premises" means all rooms or en-  
29 closures where alcoholic beverages are sold or consumed or sold  
30 and consumed under authority of a license.

31 "Hotel" means premises or structure regularly or seasonably  
32 kept open in a bona fide manner for the lodging of transient  
33 guests, where there is in the same premises or structure an  
34 establishment where food is regularly prepared and served and  
35 where thirty-five (35) or more sleeping rooms are provided for  
36 such guests.

1 Sec. 3. Section one hundred twenty-three point sixteen  
2 (123.16), Code 1962, is hereby amended as follows:

3 1. By inserting after the word "permits" in line one (1)  
4 of subsection seven (7) the following: ", liquor control licenses".

5 2. By adding the following subsection:

6 To hear appeals from any order denying an application for a  
7 liquor control license.

1     Sec. 4. Section one hundred twenty-three point sixteen  
2     (123.16), Code 1962, is further amended by striking all of sub-  
3     section eight (8) after the word "chapter" in line three (3) and  
4     inserting in lieu thereof a period.

1     Sec. 5. Section one hundred twenty-three point seventeen  
2     (123.17), Code 1962, is hereby amended by striking all of  
3     paragraph "f" of subsection two (2) after the word "chapter"  
4     in line four (4) and inserting in lieu thereof the words "by  
5     the commission."

1     Sec. 6. Section one hundred twenty-three point twenty-two  
2     (123.22), Code 1962, is hereby amended as follows:

3         1. By inserting after the word "permit" in line four (4)  
4         of subsection one (1) the words "or liquor control license".

5         2. By striking the words "under such permit" in lines five  
6         (5) and six (6) of subsection one (1).

7         3. By striking the word "person" in line two (2) of sub-  
8         section two (2) and inserting in lieu thereof the words "permit  
9         holder".

1     Sec. 7. Section one hundred twenty-three point twenty-four  
2     (123.24), Code 1962, is hereby amended by inserting after the  
3     word "sold" in line one (1) the words "by the commission".

1     Sec. 8. Section one hundred twenty-three point twenty-six  
2     (123.26), Code 1962, is hereby amended by inserting after the  
3     word "permit" in line twenty-five (25) the words "or liquor  
4     control license".

1     Sec. 9. Section one hundred twenty-three point twenty-seven  
2     (123.27), Code 1962, is hereby amended by adding at the end  
3     of subsection two (2), paragraph "a", the following:

4         However, no individual permit shall be required for the

5 purchase of alcoholic liquor for consumption on premises covered  
6 by a liquor control license.

1 Sec. 10. Section one hundred twenty-three point twenty-seven  
2 (123.27), Code 1962, is hereby amended by adding thereto the  
3 following subsections:

4 1. Upon posting bond in the penal sum of five thousand  
5 dollars (\$5,000.00) with surety and conditions prescribed by  
6 the commission, and for the payment of all taxes due the state  
7 and upon compliance with other appropriate provisions of this  
8 Act, liquor control licenses may be issued to any person who,  
9 or whose officers and stockholders, in the case of a club or  
10 corporation, or whose partners, in the case of a partnership  
11 is of good moral character, has not been convicted of a felony,  
12 is a citizen of the United States, is not chargeable directly  
13 or indirectly with the administration or enforcement of the  
14 alcoholic beverages laws of this state, and is, in the judgment  
15 of the commission, of such financial standing and good reputation  
16 as will satisfy the commission that the licensee will comply  
17 with the law and the regulations of the commission.

18 2. No liquor control license shall be issued for premises  
19 which do not conform to all laws, ordinances and resolutions,  
20 health and fire regulations applicable thereto, or, except in  
21 the case of a hotel, have any inferior access to residential or  
22 sleeping quarters; nor shall any class "C" liquor control  
23 license be issued for premises which are not wholly within the  
24 corporate limits of a city or town, or in platted villages.

25 3. Liquor control licenses issued under this chapter shall  
26 be of the following classes:

27 a. Class "A". A class "A" liquor control license may be

28 issued to a club and shall authorize the holder thereof to  
29 purchase at wholesale, spirits and wine from the commission  
30 only, at prices to be set by the commission, and to sell  
31 alcoholic beverages so purchased to bona fide members and their  
32 guests by the individual drink for consumption on the premises  
33 only.

34 b. Class "B". A class "B" liquor control license may be  
35 issued to a hotel as herein defined and shall authorize the  
36 holder thereof to purchase, at wholesale, spirits and wine  
37 from the commission only, at prices to be set by the commission,  
38 and to sell alcoholic beverages so purchased to patrons by  
39 the individual drink for consumption on the premises only.  
40 Each such license shall be effective throughout the premises  
41 described in the application therefor, but a duplicate of such  
42 license shall be posted in each room wherein such beverages  
43 are dispensed.

44 c. Class "C". A class "C" liquor control license may be  
45 issued to a commercial establishment and shall authorize the  
46 holder thereof to purchase, at wholesale, spirits and wine from  
47 the commission only, at prices to be set by the commission,  
48 and to sell alcoholic beverages so purchased to patrons by the  
49 individual drink for consumption on the premises only.

50 d. Class "D". A class "D" liquor control license may be  
51 issued to a railway corporation and to an air common carrier  
52 and shall authorize the holder thereof to sell or furnish  
53 alcoholic beverages to passengers for consumption only on trains  
54 or aircraft, respectively. Each such license shall be good  
55 throughout the state as a state license. Only one such license  
56 shall be required for all trains or aircraft operated in the

57 state by the licensee, but a duplicate of such license issued  
58 shall be posted in each railroad car or aircraft in which such  
59 beverages are sold. Such licensee shall keep a record of all  
60 alcoholic beverages sold or furnished in the state of Iowa, and  
61 on or before the last day of each month shall render a report  
62 to the commission showing the quantities of the various kinds  
63 of alcoholic beverages so sold or furnished during the pre-  
64 ceding month, which report shall be accompanied by payment of  
65 appropriate required taxes.

66 4. An application for a class "B" or a class "C" liquor  
67 control license, accompanied by the required fee and bond, shall  
68 be filed with the appropriate city or town council if the prem-  
69 ises proposed to be licensed are located within the corporate  
70 limits of a city or town, or with the board of supervisors if  
71 the premises proposed to be licensed are located outside the  
72 corporate limits of a city or town. Applications for class "A"  
73 and class "D" liquor control licenses, accompanied by the re-  
74 quired fee and bond, shall be filed with the commission, which  
75 shall proceed in the same manner as in the case of an applica-  
76 tion approved by local authorities.

77 a. The city or town council, or county board of supervisors,  
78 as the case may be, may approve the issuance of a license and  
79 endorse its approval on the application and forward same to-  
80 gether with the fee and bond to the commission; or, if it dis-  
81 approves issuance of a license, it shall endorse its disapproval  
82 on the application and forward same together with the fee and  
83 bond to the commission.

84 b. Upon receipt of an application which has been disapproved,  
85 the commission shall disapprove the application and so notify

86 the applicant by registered mail. Upon receipt of an applica-  
87 tion which has been approved, the commission shall make such  
88 investigation as it deems necessary; and it may require the  
89 applicant to appear before it and be examined under oath re-  
90 garding any matters pertinent to the application, in which case  
91 a record shall be made of all testimony or evidence and the  
92 same shall become a part of the application. If the application  
93 is approved, an appropriate liquor control license shall be  
94 issued. If the application is disapproved, the applicant and  
95 the appropriate city or town council, or county board of super-  
96 visors, as the case may be, shall be so notified in writing,  
97 and the fee and bond shall be returned to the applicant.

98 c. Any applicant for a liquor control license may appeal  
99 to the commission from its disapproval of an application for a  
100 license; or, in lieu of such appeal, the commission may afford  
101 the applicant a hearing through issuance of a notice to the  
102 applicant of contemplated disapproval of a license. If, upon  
103 such appeal or hearing, the commission shall determine that  
104 the commission's disapproval or contemplated disapproval should  
105 be reversed, it may issue a license.

106 d. Any applicant who feels aggrieved by a decision of the  
107 commission disapproving issuance of a license may, provided  
108 he has exercised his rights of appeal to the commission as  
109 hereinabove provided, appeal from said decision within ten  
110 (10) days by writ of certiorari to the district court of the  
111 county wherein the premises covered by the application are  
112 situated.

113 5. Applications for the original issuance or the renewal of  
114 liquor control licenses shall be filed at such time and in such

115 number of copies as the commission shall by regulation prescribe,  
116 on forms prescribed by the commission, and shall set forth under  
117 oath the following information:

118 a. The name and address of the applicant.

119 b. The precise location of the premises for which a license  
120 is sought.

121 c. The names and addresses of all persons (in the case of  
122 a corporation, the officers, directors, and persons owning or  
123 controlling ten (10) per cent or more of the capital stock  
124 thereof) having a financial interest, by way of loan, ownership,  
125 or otherwise, in the business or the profits thereof.

126 d. When required by the commission, a sketch or drawing of  
127 the premises proposed to be licensed and in such form and con-  
128 taining such information as the commission may require.

129 e. A statement whether any person specified in paragraph  
130 "c" hereof has ever been convicted of any offense against the  
131 laws of the United States, or any state or territory thereof,  
132 or any political subdivisions of any such state or territory.

133 f. Such other information as the commission shall require.

134 6. The number of licenses issued covering premises within  
135 any incorporated city or town, exclusive of class "A" and class  
136 "D" licenses, shall not exceed four (4) licenses for each city  
137 or town with a population of three thousand (3,000) or less,  
138 and one additional license for each one thousand (1,000) popu-  
139 lation or major fraction thereof for any city or town with a  
140 population over three thousand (3,000), according to the last  
141 decennial federal census.

142 7. The number of licenses issued covering premises in any  
143 county outside of incorporated cities and towns, exclusive of

144 class "A" and class "D" licenses, shall not exceed one license  
145 for each two thousand (2,000) population or major fraction  
146 thereof of the entire county, to include cities and towns therein,  
147 according to the last decennial federal census.

148 8. All liquor control licenses issued as provided for  
149 herein, unless sooner revoked, shall expire on June 30 of each  
150 year.

1 Sec. 11. Section one hundred twenty-three point twenty-  
2 eight (123.28), Code 1962, is hereby amended by adding the  
3 following paragraphs:

4 There shall be paid annually to the commission for each  
5 liquor control license the sum of one thousand dollars (\$1,000).

6 In the case of an original license issued for an unexpired  
7 portion of a license year, the amount of the fee shall be  
8 apportioned on the basis of the ratio the number of months or  
9 major fraction thereof bears to twelve.

10 The commission shall credit all fees to the liquor control  
11 act fund and shall remit to the respective city or town council,  
12 or county board of supervisors, as the case may be, a sum  
13 equal to fifty percent (50%) of the fees collected for each  
14 class "A", class "B", or class "C" license covering premises  
15 located within their respective jurisdiction.

1 Sec. 12. Section one hundred twenty-three point twenty-  
2 nine (123.29), Code 1962, is hereby amended as follows:

3 1. By inserting after the word "permit" in line one (1)  
4 the words "or liquor control license".

5 2. By striking the period in line eight (8) and inserting  
6 in lieu thereof the following: "or licensee."

7 3. By adding the following paragraph:

8 In the case of a class "A", class "B", or class "C" licensee,  
9 the commission may in its discretion authorize a licensee to  
10 remove the license from one location to another within the  
11 same incorporated city or town, or within a county outside  
12 the corporate limits of a city or town, provided that the  
13 premises to which the transfer is to be made would have been  
14 eligible for a license in the first instance and such transfer  
15 will not result in any violation of any provision of law."

1 Sec. 13. Section one hundred twenty-three point thirty-two  
2 (123.32), Code 1962, is hereby amended by adding the following  
3 paragraph:

4 Any liquor control license issued under this chapter may,  
5 after notice in writing to the license holder and reasonable  
6 opportunity for hearing, be suspended or canceled by the  
7 commission for any of the following causes:

- 8 1. Misrepresentation of any material fact in the application  
9 for such license, or
- 10 2. Violation of any of the provisions of the Iowa liquor  
11 control act or regulations of the commission, or
- 12 3. Any change in the ownership or interest in the business  
13 operated under a class "A", class "B", or class "C" license,  
14 which change was not previously reported to the commission  
15 and approved by it, or
- 16 4. An event which would have resulted in disqualification  
17 from receiving such license when originally issued, or
- 18 5. Any sale, hypothecation, or transfer of such license.

1 Sec. 14. Section one hundred twenty-three point forty  
2 (123.40), Code 1962, is hereby amended by adding at the end  
3 thereof the following:

4 No person engaged in the business of manufacturing or  
5 wholesaling alcoholic beverages shall have, through ownership,  
6 loan, or otherwise, any interest, directly or indirectly, in  
7 the business premises or furnishing thereof covered by a liquor  
8 control license issued under this chapter.

1 Sec. 15. Section one hundred twenty-three point forty-two  
2 (123.42), Code 1962, is hereby amended by inserting after the  
3 comma in line four (4) thereof the following: "except prem-  
4 ises covered by a liquor control license,".

1 Sec. 16. Section one hundred twenty-three point forty-six  
2 (123.46), Code 1962, is hereby amended by adding at the end  
3 thereof the following subsections:

4 1. No person holding a liquor control license under this  
5 chapter, his agents or employees, shall:

6 a. Suffer or permit any gaming, solicitation for immoral  
7 purposes, immoral or disorderly conduct on the licensed prem-  
8 ises.

9 b. Sell or dispense any alcoholic beverage on the licensed  
10 premises or permit the consumption thereon between the hours  
11 of one a.m. and seven a.m. on any weekday, and from twelve  
12 o'clock midnight on Saturday and seven a.m. on the following  
13 Monday, or on any general, special, or primary election day  
14 during the hours that polls are open, or during such other  
15 periods or days as may be designated by the commission.

16 c. Sell alcoholic beverages to any person on credit, except  
17 that this provision shall not apply to sales by a club to its  
18 members nor to sales by a hotel to bona fide registered guests.

19 d. Keep on the licensed premises any spirits or wine in any  
20 container except the original package purchased from the com-

21 mission, except mixed drinks or cocktails mixed on the premises  
22 for immediate consumption, provided that this shall not apply  
23 to common carriers holding a class "D" liquor control license.

24 e. Reuse for the packaging of any spirits or wine any  
25 bottle or other container which has been used for the packaging  
26 of alcoholic beverages or possess any such bottle or container,  
27 or in any manner alter or increase, by the addition thereto of  
28 any substance, any portion of the original contents remaining  
29 in such bottle or container in which any portion of the original  
30 contents has been so altered or increased.

31 f. Employ any person under the age of twenty-one (21) years  
32 in the direct handling or selling of liquor on the premises  
33 where such liquor is sold.

34 g. Allow any person other than the license holder or his  
35 employees to use or keep on the licensed premises any spirits  
36 or wine in any bottle or other container which is designed for  
37 the transporting of alcoholic beverages, provided that this  
38 shall not apply to the lodging quarters of a class "B" liquor  
39 control license, or to common carriers holding a class "D"  
40 liquor control license.

41 2. No person under the age of twenty-one (21) years shall  
42 misrepresent his or her age for the purpose of purchasing or  
43 attempting to purchase any alcoholic beverage from any licensee.

44 Whoever violates any of the provisions of this section shall  
45 be subject to a fine of one thousand dollars (\$1,000) or to  
46 imprisonment for not less than thirty (30) days nor more than  
47 one year in the county jail, or to both such fine and imprison-  
48 ment.

49 The conviction of any liquor control license holder for

50 the violation of any of the provisions of this section shall  
51 be grounds for the suspension or revocation of the license by  
52 the commission.

1 Sec. 17. Section one hundred twenty-three point fifty-three  
2 (123.53), Code 1962, is hereby amended by adding thereto the  
3 following subsections:

4 1. The number of liquor control licenses issued by class,  
5 and the number in effect on the day included in the report.

6 2. Amount of fees paid to the commission from said liquor  
7 control licenses in gross, and the amount returned to local  
8 subdivisions of government as provided under this chapter.

1 Sec. 18. Section one hundred twenty-three point fifty-nine  
2 (123.59), Code 1962, is hereby amended as follows:

3 1. By inserting in line eight (8) after the word "otherwise"  
4 the words "in violation of law".

5 2. By striking in lines twelve (12) and thirteen (13) the  
6 words "in violation of this chapter" and inserting in lieu  
7 thereof the words "in violation of law".

1 Sec. 19. Section one hundred twenty-three point sixty  
2 (123.60), Code 1962, is hereby amended by striking in line  
3 eight (8) the words "in violation of this chapter", and in-  
4 serting in lieu thereof the words "in violation of law".

1 Sec. 20. Section one hundred twenty-four point thirty-one  
2 (124.31), Code 1962, is hereby amended by inserting after the  
3 word "purposes" in line twenty-seven (27) the following: ", or  
4 to any club, hotel or commercial establishment licensed to sell  
5 alcoholic beverages for consumption on the premises where sold  
6 as provided in this title".

1 Sec. 21. Section one hundred twenty-five point seven

2 (125.7), Code 1962, is hereby amended by inserting in line eight  
3 (8) after the word "otherwise" the words "in violation of law".

1 Sec. 22. Section one hundred twenty-five point thirteen  
2 (125.13), Code 1962, is hereby amended by adding thereto the  
3 following:

4 Provided, however, that this section shall not apply to the  
5 holder of a liquor control license authorizing the sale of  
6 alcoholic liquors for consumption on the premises where sold,  
7 or to his agents, servants or employees in the performance on  
8 the licensed premises of the acts herein prohibited.

1 Sec. 23. Section one hundred twenty-five point seventeen  
2 (125.17), Code 1962, is hereby amended by inserting in line  
3 eight (8) after the word "car" the words "in violation of law".

1 Sec. 24. Title sixteen (XVI), Code 1962, is hereby amended  
2 by adding thereto the following:

3 1. There is hereby imposed on every individual, partnership,  
4 corporation, association or club licensed to sell alcoholic  
5 beverages for consumption on the premises where sold, an  
6 occupational tax to be computed on all alcoholic beverages  
7 sold, as follows:

8 An amount equivalent to ten per centum upon the gross re-  
9 cepts of any licensee from all sales of alcoholic beverages  
10 in the state of Iowa.

11 2. On or before the fifteenth day of each month every such  
12 licensee shall render to the state tax commission a report  
13 sworn to by an officer or agent in the case of corporations,  
14 and by the owner or agent in the case of an individual licensee,  
15 showing the amount of receipts from sales of such alcoholic  
16 beverages in this state during the preceding calendar month and

17 such other information as the commission may require, such  
18 reports to be on forms to be provided by the commission.

19 3. "Gross receipts" as used in this section shall mean the  
20 amount received in money, credits, or property valued in money  
21 in consideration of the sale of such alcoholic beverages within  
22 this state, without any deduction on account of the cost of the  
23 property sold, the cost of the materials used, the cost of  
24 labor or services, purchases, amounts paid for interest or  
25 discount, or any other expenses whatsoever. No deductions  
26 shall be allowed for losses of any nature.

27 4. Every such licensee shall, within thirty (30) days after  
28 the filing date of such report as provided in this Act, compute  
29 and pay to the commission an amount equivalent to ten per  
30 centum of his gross receipts during the calendar month covered  
31 by such report and the commission shall forthwith issue a  
32 receipt to the taxpayer for the amount of the tax so paid.

33 5. All revenues arising under the operation of the pro-  
34 visions of this Act shall become part of the state general  
35 fund.

36 6. The failure or refusal on the part of any licensee to  
37 render any report or remit any taxes to the commission under  
38 this Act when due shall be reported to the Iowa liquor control  
39 commission by the commission.

#### EXPLANATION OF HOUSE FILE 164

This bill would provide for the further regulation, control and distribution of alcoholic beverages within the state. It would also provide such needed state revenue therefrom, and eliminate certain existing illegal traffic in liquor. This proposal would allow the city or town council or the board of supervisors, respectively, to determine the licensing of sale of alcoholic beverages to the general public within their respective jurisdictions.