

February 28, 1963.

Passed on File.

Safety & Law Enforcement 3/11

House File 517

By VAN NOSTRAND.

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 Iowa state liquor stores and designed to eliminate bootlegging from the state of Iowa; to provide for local option of liquor by the drink 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 (123.1),

2 Code 1962, is hereby amended as follows:

3 1. By striking all of such section after the word "this" in

4 line thirteen (13) and inserting in lieu thereof the words "title

5 through the medium of an Iowa liquor control commission by this

6 chapter created."

7 2. By adding thereto the following:

8 "Alcoholic liquors by the drink shall not be sold or served in

9 Iowa except in the following places and under the following con-

10 ditions:

11 a. Aboard airplanes and railroad cars operated by commercial

12 common carriers licensed by the liquor control commission.

13 b. In licensed establishments in those cities, towns, or town-

14 ships which shall affirmatively vote for liquor by the drink.

15 Such vote on liquor by the drink shall be affirmed at a special

16 or general election by a majority of the voters casting votes for

17 or against the proposition. In order to submit the question at

18 a special municipal election, petitions requesting a special

19 election on liquor by the drink shall be signed by electors of

20 the city, town, or township no part of which lies within the
21 corporate limits of a city or town, in a number which is equal
22 to at least twenty percent of the votes cast at the last general
23 election. Petitions shall be presented to the municipal clerk
24 of a city or town, or the county auditor, who shall cause to be
25 published once in a newspaper of general circulation in the city
26 or town a notice of the special election. The special election
27 shall be held not less than ten days nor more than twenty days
28 from the date of publication. The published notice shall state
29 the proposition to be submitted to the electors at the special
30 election and the date of the election. In order to submit the
31 question at a general election, petitions requesting the sub-
32 mission of the proposition at a general election shall be signed
33 by electors of the city, town, or such township in a number which
34 is equal to at least twenty percent of the votes cast at the last
35 general election. Petitions shall be presented to the municipal
36 clerk or county auditor at least thirty days before a general
37 election.

38 The petitions required by this Act shall:

39 (1) Be on sheets containing not more than thirty signatures
40 per sheet together with the addresses of the signers and the
41 dates of their signing. To be valid a signature must have been
42 appended to a petition within ninety days of presentation to the
43 municipal clerk or auditor.

44 (2) State at the top of each sheet the proposition to be sub-
45 mitted.

46 (3) Contain a statement of the person circulating the
47 petition that each signer is a qualified elector of the city,
48 town, or township and that the petition was signed in the pres-

49 ence of the person circulating the petition. Such statement shall
50 be at the bottom of each sheet and must be made under oath by
51 the person circulating the petition.

52 The proposition shall be placed on the ballot at a special or
53 general election in the following form:

54 'Shall the sale of alcoholic liquors by the drink be licensed
55 in (insert name of city, town or township)?

56 For license to sell by drink.

57 Against license to sell by drink.'

58 Statutes relating to municipal elections that are not incon-
59 sistent with this section shall apply to voting on the proposi-
60 tion of licensing liquor by the drink in a city, town or town-
61 ship."

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

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

6 2. By inserting in line one (1) of subsection nine (9) of
7 such section after the word "license" the words "or 'liquor
8 control license'".

9 3. By adding thereto the following new subsections:

10 a. " 'Air common carrier' means a person engaged in trans-
11 porting passengers for hire in interstate or foreign commerce by
12 aircraft and operating regularly scheduled flights under a
13 certificate of public convenience issued by the civil aeronautics
14 board.

15 b. 'Club' means a corporation or association of individuals
16 organized in good faith for social, recreational, benevolent,

17 charitable, political, patriotic, or athletic purposes, but not
18 for private gain. The club must be the owner, lessor or occupant
19 of a permanent building or part thereof and must have been in
20 continuous operation as a club for not less than two years before
21 making application for a license under this Act. Membership
22 in the club shall entail the prepayment of regular dues.

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

30 d. 'Licensed premise' or 'premise' means all rooms or
31 enclosures where alcoholic beverages are sold or consumed under
32 authority of a license.

33 e. 'Hotel' or 'motel' means a premise or structure where
34 thirty-five or more sleeping rooms are provided for guests and
35 where there is within the same premise or structure an estab-
36 lishment where food is regularly prepared and served. Such
37 premise or structure must be regularly or seasonably kept open in
38 a bona fide manner for the lodging of transient guests.

39 f. 'Liquor control license' means a license issued by the
40 liquor control commission authorizing the holder thereof to sell
41 liquor by the drink."

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

3 1. By inserting in line one (1) of subsection seven (7) of
4 such section after the word "permits" the words ", liquor control

5 licenses.”

6 2. By inserting in line two (2) of subsection seven (7) of
7 such section after the word “licenses” the words “, liquor
8 control licenses,”.

9 3. By striking all of subsection eight (8) of such section
10 after the word “chapter” in line three (3) and inserting in lieu
11 thereof a period.

12 4. By adding thereto the following subsection:

13 “To hear appeals from any order denying an application for
14 a liquor control license.”

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

1 Sec. 5. Section one hundred twenty-three point twenty-two
2 (123.22), Code 1962, is hereby amended as follows:

3 1. By inserting in line four (4) of subsection one (1) of
4 such section after the word “permit” the words “or liquor con-
5 trol license”.

6 2. By striking from lines five (5) and six (6) of subsection
7 one (1) of such section the words “under such permit”.

8 3. By striking from line two (2) of subsection two (2) of
9 such section the word “person” and inserting in lieu thereof the
10 words “permit holder”.

1 Sec. 6. Section one hundred twenty-three point twenty-four
2 (123.24), Code 1962, is hereby amended by inserting in line one
3 (1) after the word “sold” the words “by the commission”.

1 Sec. 7. Section one hundred twenty-three point twenty-six

2 (123.26), Code 1962, is hereby amended by inserting in line
3 twenty-five (25) after the word "permit" the words "or liquor
4 control license".

1 Sec. 8. Section one hundred twenty-three point twenty-seven
2 (123.27), Code 1962, is hereby amended by adding at the end of
3 paragraph "a" of subsection two (2) of such section, the words
4 "however, no individual permit shall be required for the purchase
5 of alcoholic liquor for consumption on premises covered by a
6 liquor control license."

7 Further amend section one hundred twenty-three point twenty-
8 seven (123.27), Code 1962, by adding thereto the following new
9 subsections:

10 1. "Upon compliance with the provisions of law for liquor
11 control a liquor control license may be issued to any person who
12 meets all of the following requirements:

13 a. Is of good moral character.

14 b. Has not been convicted of a felony.

15 c. Is a citizen of the United States.

16 d. Is not chargeable directly or indirectly with the ad-
17 ministration or enforcement of the alcoholic beverage laws of the
18 state of Iowa.

19 e. Is, in the judgment of the commission, of such financial
20 standing and good reputation as will satisfy the commission that
21 the licensee will comply with the law and the regulations of the
22 commission.

23 f. Posts bond in the penal sum of ten thousand (10,000)
24 dollars with sureties approved by the commission, conditioned
25 upon the payment of all taxes due the state.

26 The failure of a licensee to pay liquor taxes due the state

27 within thirty days after such taxes become due shall work a
28 forfeiture of the bond.

29 2. "No liquor control license shall be issued for premises
30 which do not conform to all applicable laws, ordinances,
31 resolutions, health and fire regulations, or, except in the case
32 of a hotel or motel, have any interior access to residential or
33 sleeping quarters.

34 3. "Liquor control licenses issued under this chapter shall
35 be of the following classes:

36 a. Class 'A'. A class 'A' liquor control license may be
37 issued to a club and shall authorize the holder of such license
38 to purchase spirits and wine from the commission only at prices
39 to be set by the commission, and such licensee may sell alcoholic
40 beverages so purchased to bona fide members and their guests by
41 the individual drink for consumption on the premises only.

42 b. Class 'B'. A class 'B' liquor control license may be
43 issued to a hotel or motel and shall authorize the holder of such
44 license to purchase spirits and wine from the commission only at
45 prices to be set by the commission, and such licensee may sell
46 alcoholic beverages so purchased to patrons by the individual
47 drink for consumption on the premises only. Each such license
48 shall be effective throughout the premises described in the
49 application for such license, but a duplicate of such license
50 shall be posted in each room wherein such beverages are dispensed.

51 c. Class 'C'. A class 'C' liquor control license may be
52 issued to a commercial establishment and shall authorize the
53 holder of such license to purchase spirits and wine from the
54 commission only at prices to be set by the commission, and such
55 licensee may sell alcoholic beverages so purchased to patrons by

56 the individual drink for consumption on the premises only.
57 d. Class 'D'. A class 'D' liquor control license may be
58 issued to a a railway corporation and to an air common carrier and
59 shall authorize the holder of such license to sell or furnish
60 alcoholic beverages to passengers for consumption only on trains
61 or aircraft. Only alcoholic beverages purchased from the com-
62 mission may be served. Each such license shall be good
63 throughout the state. Only one such license shall be required
64 for all trains or aircraft operated in the state by the licensee,
65 but a duplicate of such license issued shall be posted in each
66 railroad car or aircraft in which such beverages are sold. Such
67 licensee shall keep a record of all alcoholic beverages sold or
68 furnished in the state of Iowa, and on or before the last day
69 of each month the licensee shall submit a report to the commis-
70 sion showing the quantities of the various kinds of alcoholic
71 beverages sold or furnished during the preceding month. Each
72 report shall be accompanied by payment of appropriate taxes due
73 the state.

74 4. "An application for a class 'B' or class 'C' liquor con-
75 trol license, accompanied by the required fee and bond, shall be
76 filed with the appropriate city or town council if the premises
77 proposed to be licensed are located within the corporate limits
78 of a city or town, or with the board of supervisors if the prem-
79 ises proposed to be licensed are located outside the corporate
80 limits of a city or town. Application for class 'A' and class
81 'D' liquor control licenses, accompanied by the required fee and
82 bond, shall be filed with the commission which shall proceed in
83 the same manner as in the case of an application approved by
84 local authorities.

85 a. The city or town council or county board of supervisors,
86 as the case may be, may approve the issuance of a license and
87 endorse its approval on the application and forward the applica-
88 tion along with the fee and bond to the commission. If the city
89 or town council or the board of supervisors disapproves issuance
90 of a license, the council or board shall endorse its disapproval
91 on the application and forward the application along with the fee
92 and bond to the commission.

93 b. Upon receipt of an application which has been disapproved,
94 the commission shall disapprove the application and so notify the
95 applicant by registered mail. Upon receipt of an application
96 having been approved, the commission shall make such investi-
97 gation as it deems necessary. The commission may require the
98 applicant to appear before it and be examined under oath regarding
99 any matters pertinent to the application, in which case a record
100 shall be made of all testimony or evidence and the same shall
101 become a part of the application. If the application is approved,
102 an appropriate liquor control license shall be issued. If the
103 application is disapproved, the applicant and the appropriate city
104 or town council, or county board of supervisors, shall be so
105 notified in writing, and the fee and bond shall be returned to
106 the applicant.

107 c. Any applicant for a liquor control license may appeal to
108 the commission from its disapproval of an application for a
109 license. If, upon appeal the commission shall determine that
110 the disapproval should be reversed, the commission may issue a
111 license.

112 d. If the commission disapproves the issuance of a license,
113 the applicant may appeal from such decision within ten days by

114 a writ of certiorari to the district court of the county where
115 the premise covered by the application is situated.

116 5. "Applications for the original issuance or the renewal of
117 liquor control licenses shall be filed at such time, on such
118 forms, and in such number of copies as the commission shall by
119 regulation prescribe. The application shall set forth under
120 oath the following information:

121 a. The name and address of the applicant, and the names and
122 addresses of officers and directors if the applicant is a
123 corporation.

124 b. The precise location of the premises for which a license
125 is sought.

126 c. The names and addresses of all persons having a ten
127 percent or more financial interest in the business or the profits
128 thereof by way of loan, ownership, or otherwise.

129 d. When required by the commission, a sketch or drawing of
130 the premises proposed to be licensed. The sketch or drawing
131 shall be in such form and contain such information as the com-
132 mission may require.

133 e. A statement whether any person specified in paragraphs
134 'a' or 'c' of this section has ever been convicted of any offense
135 against the laws of the United States, or any state or territory
136 thereof, or any political subdivision of any such state or terri-
137 tory, together with the nature of any offense.

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

139 6. "The number of class 'B' and class 'C' licenses issued
140 covering premises within any incorporated city, town, or town-
141 ship shall not exceed four licenses for each city, town, or town-
142 ship with a population of three thousand (3,000) or less and one

143 additional license for each one thousand (1,000) population or
144 major fraction thereof for any city, town, or township with a
145 population over three thousand (3,000), according to the last
146 decennial federal census.

147 7. "The number of class 'B' and class 'C' licenses issued
148 covering premises in any township outside of incorporated cities
149 and towns shall not exceed one (1) license for each two thousand
150 (2,000) population or major fraction thereof of the entire
151 township, according to the last decennial federal census.

152 8. "All liquor control licenses issued, unless sooner revoked,
153 shall expire on June 30 of each year."

1 Sec. 9. Section one hundred twenty-three point twenty-eight
2 (123.28), Code 1962, is hereby amended by adding thereto the
3 following:

4 "For each liquor control license there shall be paid annually
5 to the commission:

6 1. For a class 'A' license, eight hundred (800) dollars.

7 2. For a class 'B' license:

8 a. If the hotel or motel has two hundred fifty guest rooms
9 or more, twelve hundred (1200) dollars.

10 b. If the hotel or motel has less than two hundred fifty
11 guest rooms, eight hundred (800) dollars.

12 3. For a class 'C' license:

13 a. In cities, towns, or townships of ten thousand or more
14 population, twelve hundred (1200) dollars.

15 b. In cities, towns, or townships of at least two thousand
16 but less than ten thousand population, eight hundred (800)
17 dollars.

18 c. In cities, towns, or townships of less than two thousand

19 population, five hundred (500) dollars.

20 4. For a class 'D' license, six hundred (600) dollars.

21 In the case of an original license issued for an unexpired
22 portion of a license year, the amount of the fee shall be appor-
23 tioned on the basis of the ratio the number of months or major
24 fraction thereof bears to the number twelve.

25 The commission shall remit to the respective city or town
26 council or board of supervisors of the county in which the town-
27 ship is located, a sum equal to fifty percent of the fees col-
28 lected for each class 'A', class 'B' or class 'C' license cover-
29 ing the premises under the jurisdiction of the respective city
30 or town council or board of supervisors."

1 Sec. 10. Section one hundred twenty-three point twenty-nine
2 (123.29), Code 1962, is hereby amended as follows:

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

5 2. By inserting in line eight (8) after the word "permittee"
6 the words "or licensee".

7 3. By adding thereto the following:

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

1 Sec. 11. Section one hundred twenty-three point thirty-two
2 (123.32), Code 1962, is hereby amended by adding thereto the

3 following:

4 "After giving written notice to the license holder and allow-
5 ing reasonable opportunity for hearing, the commission may suspend,
6 or cancel any liquor license issued under this chapter for any of
7 the following reasons:

8 1. Misrepresentation of any material fact in the application
9 for such license.

10 2. Violation of any of the provisions of the Iowa liquor
11 control act or regulations of the commission.

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 and
15 approved by it.

16 4. An event which would have resulted in disqualification
17 from receiving such license when originally issued.

18 5. Any sale, hypothecation, or transfer of such license."

1 Sec. 12. Section one hundred twenty-three point forty
2 (123.40), Code 1962, is hereby amended by adding thereto the
3 following:

4 "No person engaged in the business of manufacturing or whole-
5 saling alcoholic beverages shall have, through ownership, loan,
6 or otherwise, any interest, directly or indirectly, in the
7 business premises or furnishings thereof covered by a liquor con-
8 trol license issued under this chapter."

1 Sec. 13. Section one hundred twenty-three point forty-two
2 (123.42), Code 1962, is hereby amended by inserting in line four
3 (4) after the word "place" the words "except premises covered by
4 a liquor control license,".

1 Sec. 14. Section one hundred twenty-three point forty-six

2 (123.46), Code 1962, is hereby amended by adding thereto the
3 following new 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, or 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 of
11 one a.m. and ten a.m. on any week day, and from twelve o'clock
12 midnight on Saturday and ten a.m. on the following Monday, or on
13 any general, special, or primary election day during the hours
14 that polls are open, or during such other periods or days as may
15 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 premise any spirits or wine in any
20 container except the original package purchased from the commis-
21 sion. This provision shall not apply to mixed drinks or cock-
22 tails mixed on the premises for immediate consumption or to
23 common carriers holding a class 'D' liquor control license.

24 e. Reuse any container which has been used for the packaging
25 of alcoholic beverages or alter the original contents of any
26 bottle or container except to mix drinks for immediate consump-
27 tion on the premises.

28 f. Employ any person under the age of twenty-one years in
29 the direct handling or selling of liquor on the premises where
30 such liquor is sold.

31 g. Allow any person other than the license holder or his
32 employees to use or keep on the licensed premises any spirits or
33 wine in any bottle or other container which is designed for the
34 transporting of alcoholic beverages. This provision shall not
35 apply to the lodging quarters of a class 'B' liquor control
36 licensee, or to common carriers holding a class 'D' liquor con-
37 trol license.

38 2. "No person under the age of twenty-one years shall mis-
39 represent his or her age for the purpose of purchasing or
40 attempting to purchase any alcoholic beverage from any licensee.

41 Whoever violates any of the provisions of this section for a
42 first offense shall be subject to a fine of one thousand (1,000)
43 dollars or to imprisonment in the county jail for thirty days
44 or to both such fine and imprisonment. For a second and all sub-
45 sequent offenses anyone who violates the provisions of this
46 chapter shall be subject to a fine of two thousand (2,000)
47 dollars or thirty days imprisonment in the county jail or to
48 both such fine and imprisonment.

49 The conviction of any liquor control license holder for the
50 violation of any of the provisions of this section shall be
51 grounds for the suspension or revocation of the license by the
52 commission."

1 Sec. 15. Section one hundred twenty-three point fifty-three
2 (123.53), Code 1962, is hereby amended by adding the following
3 new subsections:

4 1. "The number of liquor control licenses issued, by class,
5 and the number in effect on the last 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. 16. 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 from lines twelve (12) and thirteen (13) the
6 words “in violation of this chapter” and inserting in lieu there-
7 of the words “in violation of law”.

1 Sec. 17. Section one hundred twenty-three point sixty
2 (123.60), Code 1962, is hereby amended by striking from line
3 eight (8) the words “this chapter” and inserting in lieu thereof
4 the word “law”.

1 Sec. 18. Section one hundred twenty-four point thirty-one
2 (124.31), Code 1962, is hereby amended by inserting in line
3 twenty-seven (27) after the word “purposes” the words “, or to
4 any club, hotel, motel, or commercial establishment licensed
5 to sell alcoholic beverages for consumption on the premises”.

1 Sec. 19. Section one hundred twenty-five point seven (125.7),
2 Code 1962, is hereby amended by inserting in line eight (8) after
3 the word “otherwise” the words “in violation of law”.

1 Sec. 20. 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 the holder of a liquor control license,
5 his agents, servants, or employees may perform the acts pro-
6 hibited by this section if such acts are performed on the
7 licensed premise.”

1 Sec. 21. 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. 22. There is hereby imposed on every individual, part-
2 nership, corporation, association, or club licensed to sell alco-
3 holic beverages for consumption on the premises where sold, an
4 occupational tax to be computed on all alcoholic beverages sold.

5 The tax shall be as follows:

6 An amount equivalent to ten per centum upon the gross receipts
7 of any licensee from all sales of alcoholic beverages in the
8 state of Iowa.

1 Sec. 23. On or before the fifteenth day of each month, every
2 liquor control licensee shall submit a report to the commission
3 showing the amount of receipts from sales of alcoholic beverages
4 in the state of Iowa during the preceding calendar month and such
5 other information as the commission may require. Such reports
6 shall be on forms provided by the commission. If the licensee is
7 a corporation, the report shall be sworn to by an officer of the
8 corporation. In the case of an individual licensee, the report
9 shall be sworn to by the owner or his agent.

1 Sec. 24. "Gross receipts" as used in this Act means the
2 amount received in money, credits, or property valued in money
3 in consideration of the sale of such alcoholic beverages within
4 this state, without any deduction because of the cost of the
5 property sold, the costs of the materials used, the cost of
6 labor or services, purchases, amounts paid for interest or dis-
7 count, or any other expenses whatsoever. No deductions shall be
8 allowed for losses of any nature.

1 Sec. 25. Every licensee shall, within thirty days after the

2 filing date of reports as provided for in this Act, compute
3 and pay to the commission an amount equivalent to ten per centum
4 of his gross receipts during the calendar month covered by a
5 report, and the commission shall forthwith issue a receipt to
6 the taxpayer for the amount of tax so paid.

1 Sec. 26. All revenues arising under the operation of the
2 provisions of this Act shall become part of the state general
3 fund.

1 Sec. 27. The failure or refusal of any licensee to render
2 any report or remit any taxes due under this Act shall be re-
3 ported to the Iowa liquor control commission by the state tax
4 commission.

EXPLANATION OF HOUSE FILE 517

This bill provides for the further regulation, control and distribution of alcoholic beverages within the state. It will also provide much needed state revenue and eliminate certain existing illegal traffic in liquor. This bill provides for local option so that the people in each city, town or township must vote in favor of liquor by the drink before licenses may be issued in such city, town or township.