

## Class C Native Distilled Spirits License (LCN)

*For Iowa native distilled spirits manufacturers.* Allows native distillers to serve only the spirits manufactured on the licensed premises. Also allows carry-out sales of mixed drinks or cocktails. It does not allow sales by the drink of any other alcoholic beverage (i.e. wine or beer).

The following pages contain information related to your license. This is not an all-inclusive list of information that pertains to you.

For the complete Iowa Code Chapter 123 use this link:

<https://www.legis.iowa.gov/docs/code/123.pdf>

For the complete 185 Iowa Administrative Rules use this link:

<https://www.legis.iowa.gov/docs/iac/agency/185.pdf>



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### **123.30 Liquor control licenses – classes.**

1. a. A liquor control license may be issued to any person who is of good moral character as defined by this chapter.

b. As a condition for issuance of a liquor control license or wine or beer permit, the applicant must give consent to members of the fire, police, and health departments and the building inspector of cities; the county sheriff or deputy sheriff; members of the department of public safety; representatives of the division and of the department of inspections and appeals; certified police officers; and any official county health officer to enter upon areas of the premises where alcoholic beverages are stored, served, or sold, without a warrant during business hours of the licensee or permittee to inspect for violations of this chapter or ordinances and regulations that cities and boards of supervisors may adopt. However, a subpoena issued under section 421.17 or a warrant is required for inspection of private records, a private business office, or attached living quarters. Persons who are not certified peace officers shall limit the scope of their inspections of licensed premises to the regulatory authority under which the inspection is conducted. All persons who enter upon a licensed premises to conduct an inspection shall present appropriate identification to the owner of the establishment or the person who appears to be in charge of the establishment prior to commencing an inspection; however, this provision does not apply to undercover criminal investigations conducted by peace officers.

2. A liquor control license shall not be issued for premises which do not constitute a safe and proper place or building and which do not conform to all applicable laws, ordinances, resolutions, and health and fire regulations. A licensee shall not have or maintain any interior access to residential or sleeping quarters unless permission is granted by the administrator in the form of a living quarters permit.

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

c. Class "C".

(3) A class "C" native distilled spirits liquor control license may be issued to a native distillery but shall be issued in the name of the individuals who actually own the business and shall only be issued to a native distillery which, combining all production facilities of the business, produces and manufactures not more than one hundred thousand proof gallons of distilled spirits on an annual basis. The license shall authorize the holder to sell native distilled spirits manufactured on the premises of the native distillery to patrons by the individual drink for consumption on the premises. All native distilled spirits sold by a native distillery for on-premises consumption and mixed drinks or cocktails for consumption off the premises subject to the requirements of section 123.49, subsection 2, paragraph "d". All native distilled spirits sold by a

native distillery for on premises consumption and mixed drinks or cocktails sold for consumption off the premises shall be purchased from a class “E” liquor control licensee in original unopened containers.

### **123.43A Native distilleries.**

1. Subject to rules of the division, a native distillery holding a class “A” native distilled spirits license issued pursuant to section 123.43 may sell or offer for sale native distilled spirits. As provided in this section, sales of native distilled spirits manufactured on the premises may be made at retail for off-premises consumption when sold on the premises of the native distillery that manufactures native distilled spirits. All sales intended for resale in this state shall be made through the state’s wholesale distribution system.

2. A native distillery shall not sell more than one and one-half liters per person per day, of native distilled spirits on the premises of the native distillery. However, a native distillery which, combining all production facilities of the business, produces and manufactures not more than one hundred thousand proof gallons of native distilled spirits on an annual basis, may sell not more than nine liters per person per day, of native distilled spirits. In addition, a native distillery shall not directly ship native distilled spirits for sale at retail. The native distillery shall maintain records of individual purchases of native distilled spirits at the native distillery for three years.

3. A native distillery shall not sell native distilled spirits other than as permitted in this chapter and shall not allow native distilled spirits sold for consumption off the premises to be consumed upon the premises of the native distillery. However, native distilled spirits may be tasted pursuant to the rules of the division on the premises where fermented, distilled, or matured, when no charge is made for the tasting.

4. The sale of native distilled spirits to the division for wholesale disposition and sale by the division shall be subject to the requirements of this chapter regarding such disposition and sale.

5. A native distillery issued a class “A” native distilled spirits license shall file with the division, on or before the fifteenth day of each calendar month, all documents filed by the native distillery with the alcohol and tobacco tax and trade bureau of the United States department of the treasury, including all production, storage, and processing reports.

6. Notwithstanding any provision of this chapter to the contrary or the fact that a person is the holder of a class “A” native distilled spirits license, a native distillery which, combining all production facilities of the business, produces and manufactures

not more than one hundred thousand proof gallons of native distilled spirits on an annual basis may sell those native distilled spirits manufactured on the premises of the native distillery for consumption on the premises by applying for a class “C” native distilled spirits liquor control license as provided in section 123.30. A native distillery may be granted not more than one class “C” native distilled spirits liquor control license. All native distilled spirits sold by a native distillery for on-premises consumption and mixed drinks or cocktails sold for consumption off the premises shall be purchased from a class “E” liquor control licensee. A manufacturer of native distilled spirits may be issued a class “C” native distilled spirits liquor control license regardless of whether the manufacturer is also a manufacturer of beer pursuant to a class “A” beer permit or a manufacturer of native wine pursuant to a class “A” wine permit.

7. A native distillery may sell the native distilled spirits it manufactures to customers outside the state.

### **123.23 Distiller’s certificate of compliance – injunction – penalty.**

1. Any manufacturer, distiller, or importer of alcoholic liquors shipping, selling, or having alcoholic liquors brought into this state for resale by the state shall, as a condition precedent to the privilege of so trafficking in alcoholic liquors in this state, annually make application for and hold a distiller’s certificate of compliance which shall be issued by the administrator for that purpose. No brand of alcoholic liquor shall be sold by the division in this state unless the manufacturer, distiller, importer, and all other persons participating in the distribution of that brand in this state have obtained a certificate. The certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise suspended or revoked for cause. Each completed application for a certificate of compliance or renewal shall be submitted electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of fifty dollars payable to the division. However, this subsection need not apply to a manufacturer, distiller, or importer who ships or sells in this state no more than eleven gallons or its case equivalent during any fiscal year as a result of “special orders” which might be placed, as defined and allowed by divisional rules adopted under this chapter.

2. At the time of applying for a certificate of compliance, each applicant shall submit to the division electronically, or in a manner prescribed by the administrator, the name and address of its authorized agent for service of process which shall remain effective

until changed for another, and a list of names and addresses of all representatives, employees, or attorneys whom the applicant has appointed in the state of Iowa to represent it for any purpose. The listing shall be amended by the certificate holder as necessary to keep the listing current with the division.

3. The administrator and the attorney general are authorized to require any certificate holder or person listed as the certificate holder's representative, employee, or attorney to disclose such financial and other records and transactions as may be considered relevant in discovering violations of this chapter or of rules and regulations of the division or of any other provision of law by any person.

4. Any violation of the requirements of this chapter or rules adopted pursuant to this chapter shall subject the holder of a distiller's certificate of compliance to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty, suspension of the certificate, or revocation of the certificate, after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A. However, willful failure to comply with requirements which may be imposed under subsection 3 is grounds for suspension or revocation of the certificate of compliance only.

5. This section shall not require the listing of those persons who are employed on premises where alcoholic liquors are manufactured, processed, bottled, or packaged in Iowa or persons who are thereafter engaged in the transporting of such alcoholic liquors to the division.

6. The attorney general may also proceed pursuant to the provisions of section 714.16 in order to gain compliance with subsection 3 of this section and may obtain an injunction prohibiting any further violations of this chapter or other provisions of law. Any violation of that injunction shall be punished as contempt of court pursuant to chapter 665 except that the maximum fine that may be imposed shall not exceed fifty thousand dollars.

## **123.2 General prohibition.**

It is unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in this chapter.

## **123.3 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the division, appointed pursuant to

the provisions of this chapter, or the administrator's designee.

2. "Air common carrier" means a person engaged in transporting passengers for hire in interstate or foreign commerce by aircraft and operating regularly scheduled flights under a certificate of public convenience issued by the civil aeronautics board.

3. "Alcohol" means the product of distillation of any fermented liquor rectified one or more times, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

4. "Alcoholic beverage" means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine, and beer.

5. "Alcoholic liquor" means the varieties of liquor defined in subsections 3 and 50 which contain more than six and twenty-five hundredths percent of alcohol by volume, beverages made as described in subsection 7 which beverages contain more than six and twenty-five hundredths percent of alcohol by volume but which are not wine as defined in subsection 54, high alcoholic content beer as defined in subsection 22, or canned cocktails as defined in subsection 11, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the process described in subsection 54 containing more than twenty-one and twenty-five hundredths percent of alcohol by volume, and susceptible of being consumed by a human being, for beverage purposes. Alcohol manufactured in this state for use as fuel pursuant to an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms is not an "alcoholic liquor".

6. "Application" means a written request for the issuance of a permit, license, or certificate that is supported by a verified statement of facts and submitted electronically, or in a manner prescribed by the administrator.

7. "Beer" means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than six and twenty-five hundredths percent of alcohol by volume.

8. "Brewer" means any person who manufactures beer for the purpose of sale, barter, exchange, or transportation.

9. "Brewpub" means a commercial establishment authorized to sell beer at retail for consumption on or off the premises that is operated by a person who holds a class "C" liquor control license or a class "B" beer permit and who also holds a special class "A" beer permit that authorizes the holder to manufacture and sell beer pursuant to this chapter.

10. “Broker” means a person who represents or promotes alcoholic liquor within the state on behalf of the holder of a distiller’s certificate of compliance, a manufacturer’s license, or a class “A” native distilled spirits license. An employee of the holder of a distiller’s certificate of compliance, a manufacturer’s license, or a class “A” native distilled spirits license is not a broker.

11. “Canned cocktail” means a mixed drink or cocktail that is premixed and packaged in a metal can and contains more than six and twenty-five hundredths percent of alcohol by volume but not more than fifteen percent of alcohol by volume.

12. “City” means a municipal corporation but not including a county, township, school district, or any special purpose district or authority.

13. “Club” means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

14. “Commercial establishment” means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five persons at one time, and the licensed premises of which conform to the standards and specifications of the division.

15. “Commission” means the alcoholic beverages commission established by this chapter.

16. “Completed application” means an application where all necessary fees have been paid in full, any required bonds have been submitted, the applicant has provided all information requested by the division, and the application meets the requirements of section 123.92, subsection 2, if applicable.

17. “Designated security employee” means an agent, contract employee, independent contractor, servant, or employee of a licensee or permittee who works in a security position in any capacity at a commercial establishment licensed or permitted under this chapter.

18. “Distillery”, “winery”, and “brewery” mean not only the premises where alcohol or spirits are distilled, wine is fermented, or beer is brewed, but in addition mean a person owning, representing, or in charge of such premises and the operations conducted there, including the blending and bottling or other handling and preparation of alcoholic liquor, wine, or beer in any form.

19. “Division” means the alcoholic beverages division of the department of commerce established by this chapter.

20. “Grape brandy” means brandy produced by the distillation of fermented grapes or grape juice.

21. “Grocery store” means any retail establishment, the business of which consists of the sale of food, food products, or beverages for consumption off the premises.

22. “High alcoholic content beer” means beer which contains more than six and twenty-five hundredths percent of alcohol by volume, but not more than fifteen percent of alcohol by volume, that is made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains. Not more than one and five-tenths percent of the volume of a “high alcoholic content beer” may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol. The added flavors and other nonbeverage ingredients may not include added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine.

23. “Hotel” or “motel” means premises licensed by the department of inspections and appeals and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty or more sleeping rooms.

24. “Import” means the transporting or ordering or arranging the transportation of alcoholic liquor, wine, or beer into this state whether by a resident of this state or not.

25. “Importer” means the person who transports or orders, authorizes, or arranges the transportation of alcoholic liquor, wine, or beer into this state whether the person is a resident of this state or not.

26. The terms “in accordance with the provisions of this chapter”, “pursuant to the provisions of this title”, or similar terms shall include all rules and regulations of the division adopted to aid in the administration or enforcement of those provisions.

27. “Institutional investor” means a person who maintains a diversified portfolio of investments through a state or federally chartered bank, a mutual fund, a retirement plan or account created by an employer, the person, or another individual to provide retirement benefits or deferred compensation to the person, a private investment firm, or a holding company publicly traded on the New York stock exchange, the American stock exchange, or NASDAQ stock market and who has a majority of investments in businesses other than businesses that manufacture, bottle, wholesale, or sell at retail alcoholic beverages.

28. “Legal age” means twenty-one years of age or more.

29. “Licensed premises” or “premises” means all rooms, enclosures, contiguous areas, or places susceptible of precise description satisfactory to the administrator where alcoholic beverages, wine, or beer is sold or consumed under authority of a liquor control license, wine permit, or beer permit. A single licensed premises may consist of multiple rooms, enclosures, areas, or places if they are wholly within the confines of a single building or contiguous grounds.

30. “Local authority” means the city council of any incorporated city in this state, or the county board of supervisors of any county in this state, which is empowered by this chapter to approve or deny applications for retail beer or wine permits and liquor control licenses; empowered to recommend that such permits or licenses be granted and issued by the division; and empowered to take other actions reserved to them by this chapter.

31. “Manufacture” means to distill, rectify, ferment, brew, make, mix, concoct, or process any substance capable of producing a beverage containing more than one-half of one percent of alcohol by volume and includes blending, bottling, or the preparation for sale.

32. “Mixed drink or cocktail” means an alcoholic beverage, composed in whole or in part of alcoholic liquor, that is combined with other alcoholic beverages or nonalcoholic beverages or ingredients including but not limited to ice, water, soft drinks, or flavorings.

33. “Native brewery” means a business which manufactures beer or high alcoholic content beer and is operated by a person who holds a class “A” beer permit that authorizes the holder to manufacture and sell beer pursuant to this chapter.

34. “Native distilled spirits” means spirits fermented, distilled, or, for a period of two years, barrel matured on the licensed premises of the native distillery where fermented, distilled, or matured. “Native distilled spirits” also includes blended or mixed spirits comprised solely of spirits fermented, distilled, or, for a period of two years, barrel matured at a native distillery.

35. “Native distillery” means a business with an operating still which produces and manufactures native distilled spirits.

36. “Native wine” means wine manufactured pursuant to section 123.176 by a manufacturer of native wine.

37. “Package” means any container or receptacle used for holding alcoholic liquor.

38. “Permit” or “license” means an express written authorization issued by the division for the manufacture or sale, or both, of alcoholic liquor, wine, or beer.

39. “Person” means any individual, association, or partnership, any corporation, limited liability company, or other similar legal entity, any club, hotel or motel, or any municipal corporation owning or operating a bona fide airport, marina, park, coliseum, auditorium, or recreational facility in or at which the sale of alcoholic liquor, wine, or beer is only an incidental part of the ownership or operation.

40. “Person of good moral character” means any person who meets all of the following requirements:

a. The person has such financial standing and good reputation as will satisfy the

administrator that the person will comply with this chapter and all laws, ordinances, and regulations applicable to the person's operations under this chapter. However, the administrator shall not require the person to post a bond to meet the requirements of this paragraph.

b. The person is not prohibited by section 123.40 from obtaining a liquor control license or a wine or beer permit.

c. Notwithstanding paragraph "e", the applicant is a citizen of the United States and a resident of this state, or licensed to do business in this state in the case of a corporation. Notwithstanding paragraph "e", in the case of a partnership, only one general partner need be a resident of this state.

d. The person has not been convicted of a felony. However, if the person's conviction of a felony occurred more than five years before the date of the application for a license or permit, and if the person's rights of citizenship have been restored by the governor, the administrator may determine that the person is of good moral character notwithstanding such conviction. e. The requirements of this subsection apply to the following:

- (1) Each of the officers, directors, and partners of such person.
- (2) A person who directly or indirectly owns or controls ten percent or more of any class of stock of such person.
- (3) A person who directly or indirectly has an interest of ten percent or more in the ownership or profits of such person.

41. "Pharmacy" means a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists, prescribing psychologists, or veterinarians are compounded and sold by a registered pharmacist.

42. "Private place" means a location which, at the time alcoholic beverages are kept, dispensed, or consumed, meets all of the following criteria:

- a. The general public does not have access to the location and attendees are limited to bona fide social hosts and invited guests.
- b. The location is not of a commercial nature.
- c. Goods or services are neither sold nor purchased at the location.
- d. The location is not a licensed premises.
- e. Admission fees or other kinds of entrance fees, fare, ticket, donation or charges are not made or are required of the invited guests to enter the location.

43. "Public place" means any place, building, or conveyance to which the public has or is permitted access.

44. "Residence" means the place where a person resides, permanently or temporarily.

45. "Retail beer permit" means a class "B" or class "C" beer permit issued under the provisions of this chapter.

46. "Retail wine permit" means a class "B" wine permit, class "B" native wine permit, or class "C" native wine permit issued under this chapter.

47. "Retailer" means any person who shall sell, barter, exchange, offer for sale, or have in possession with intent to sell any alcoholic liquor, wine, or beer for consumption either on or off the premises where sold.

48. The prohibited "sale" of alcoholic liquor, wine, or beer under this chapter includes soliciting for sales, taking orders for sales, keeping or exposing for sale, delivery or other trafficking for a valuable consideration promised or obtained, and procuring or allowing procurement for any other person.

49. "School" means a public or private school or that portion of a public or private school which provides facilities for teaching any grade from kindergarten through grade twelve.

50. "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, but not limited to, brandy, rum, whisky, and gin.

51. "Unincorporated town" means a compactly populated area recognized as a distinct place with a distinct place-name which is not itself incorporated or within the corporate limits of a city.

52. "Warehouse" means any premises or place primarily constructed or used or provided with facilities for the storage in transit or other temporary storage of perishable goods or for the conduct of normal warehousing business.

53. "Wholesaler" means any person, other than a vintner, brewer or bottler of beer or wine, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer. A wholesaler shall not sell for consumption upon the premises.

54. "Wine" means any beverage containing more than six and twenty-five hundredths percent of alcohol by volume but not more than twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

### **123.186 Federal regulations adopted as rules.**

1. The division shall adopt as rules the substance of the federal regulations 27 C.F.R.

pt. 6, 27 C.F.R. pt. 8, 27 C.F.R. pt. 10, and 27 C.F.R. pt. 11.

2. The division shall adopt as rules the substance of 27 C.F.R. §6.88, to permit a manufacturer of alcoholic beverages, wine, or beer, or an agent of such manufacturer, to provide to a retailer without charge wine and beer coil cleaning services, including carbon dioxide filters and other necessary accessories to properly clean the coil and affix carbon dioxide filters. The rules shall provide that the manufacturer shall be responsible for paying the costs of any filters provided.

3. A licensee or permittee who permits or assents to or is a party in any way to a violation or infringement of a rule adopted pursuant to this section is guilty of a violation of this section. A violation of this section shall subject the licensee or permittee to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty or suspension or revocation of the license or permit pursuant to section 123.39.

### **123.33 Records.**

Every holder of a license or permit under this chapter shall maintain records, in printed or electronic format, which include income statements, balance sheets, purchase and sales invoices, purchase and sales ledgers, and any other records as the administrator may require. The records required and the premises of the licensee or permittee shall be accessible and open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee or permittee.