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Kim Reynolds *Lieutenant Governor*
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TO: Interested Parties

FR: Alcoholic Beverages Division

RE: HF607 – Alcoholic Beverages Division Bill

This [bill](#) concerns alcoholic beverage control and matters under the purview of the Alcoholic Beverages Division of the Department of Commerce. The bill is presented in three divisions and makes technical and policy changes to Iowa’s alcohol laws. This memo explains the rationale for the law changes in each division. Next, it provides an overview of the changes in each division, and follows with a section by section review.

DIVISION I – ALCOHOLIC BEVERAGE CONTROL

This part of the bill was originally submitted as a department bill. It makes technical changes to [Iowa Code chapter 123](#) to eliminate language that is unclear or redundant, establishes wording that more accurately reflects the Division’s practices, and creates uniform language regarding the contents of applications for liquor control licenses, wine permits, and beer permits. These changes will make the law easier to understand and enforce and streamline the Division’s business processes.

DIVISION II – BEER PERMITS

This part of the bill combines the Alcoholic Beverages Division’s technical changes to the contents of applications for beer permits with the [recommendations](#) of Administrator Stephen Larson and Director Debi Durham to streamline licensing for Iowa beer manufacturers and wholesalers. The bill consolidates beer permits, annual permit fees, and bond requirements for beer manufacturers and wholesalers by eliminating class “AA” and special class “AA” beer permits.

As also recommended by Administrator Larson and Director Durham, DIVISION II of the bill makes two policy changes related to the sale of beer in the marketplace. The first authorizes brewpubs to sell the beer they make for consumption off the premises in a growler that is filled and sealed at the time of sale to a customer without passing through the wholesale tier. (Beer that is bottled, canned, or kegged ahead of sale is still required to pass through the wholesale tier.) The second provides that brewpubs are responsible for reporting and remitting the barrel tax for beer sold in a growler.

Finally, this part of the bill changes the law to allow an Iowa beer manufacturer with a taproom (a brewery) to also sell wine by the glass to customers for consumption on the premises. In 2009, the legislature passed reciprocal language that allowed native wineries to sell beer, in addition to wine, for consumption on the premises. This change does not pose a threat to the three-tier distribution system or create a new exception to the tied house provision in §123.45. Rather, this change equalizes the limited on-premises retail privileges of Iowa wine and beer manufacturers.

DIVISION III – NATIVE DISTILLED SPIRITS

This part of the bill makes substantive policy changes related to micro-distilleries and micro-distilled spirits. The bill changes the terminology for Iowa distilled spirits producers and their products from “micro” to “native”.

The bill creates a two-tiered structure of retail privileges for native distillers based upon annual production. Those native distilleries producing more than 100,000 proof gallons of native distilled spirits annually are allowed to sell up to 1.5 liters per person per day for off-premises consumption. Those native distilleries producing not more than 100,000 proof gallons annually are allowed to sell up to 9 liters of native distilled spirits per person per day for off-premises consumption. Also, a native distiller producing not more than 100,000 proof gallons annually who is not also engaged in the manufacturing of beer may apply for a new class “C” native distilled spirits liquor control license allowing for the retail sale for on-premises consumption of only those native distilled spirits manufactured by the native distillery. All native distilleries, regardless of size, are allowed to provide complimentary tastes of their native distilled spirits to consumers at the native distillery.

To summarize, the changes in this bill will make it easier and more efficient for Iowans to conduct business with state government, make Iowa’s alcohol laws clearer and easier to both understand and enforce, maintain the three-tier distribution system, and result in public policy that creates opportunities for improved commerce, all the while ensuring that the health and safety of Iowans is protected.

OVERVIEW: DIVISION I – ALCOHOLIC BEVERAGE CONTROL

- Amend the definition of “licensed premises” or “premises” to allow greater flexibility to retailers and local authorities when they are adding outdoor service areas to licensed premises.
- Restructure unnumbered Code sections and make technical changes throughout the chapter to improve readability.
- Remove language pertaining to “cash payment” as a method of payment for liquor purchases because it is no longer accepted by the Division.
- Eliminate application content requirements that are no longer needed by the Division.
- Allow the Division to provide notification to local authorities in a more efficient, cost-effective manner.
- Clarify the types of business records that licensees and permittees are required to maintain.
- Clarify how seasonal licenses and permits are issued.
- Explain how signs and branded advertising materials may be used on a licensed premises.
- Restructure the application contents for wine permits into a logical sequence, create consistent language for beer and wine permits, and add language that is currently incorporated by reference, which will assist the reader.

DIVISION I SECTION BY SECTION:

SECTION 1: Amends the definition of “licensed premises” or “premises” found in §123.3(25) to allow a non-contiguous space to be added to a licensed premises, subject to the approval of the Administrator. An example of a non-contiguous space would be an outdoor seating area that is separated from the licensed premises by a public sidewalk.

SECTION 2: Amends §123.22, which pertains to the state monopoly, by restructuring the unnumbered paragraph into four subsections to assist the reader. It also amends newly numbered subsection 4 to allow individuals to make, sell, or transport devices and ingredients used to make homemade beer.

SECTION 3: Amends §123.23(2) as it pertains to the information provided by an applicant for a Distiller’s Certificate of Compliance. The amendment removes the ambiguous phrase “from time to time” from the sentence that requires the certificate holder to update the information as necessary to keep it current with the Division.

SECTION 4: Amends §123.28, which pertains to restrictions on transportation, by restructuring the unnumbered paragraph into five subsections to assist the reader.

SECTION 5: Amends §123.30(1)(c) by removing ‘*cash payment*’ as a type of payment for purchases from the Division that would exempt an applicant for class “E” liquor license from posting a bond as a condition of licensure. The Division does not accept cash payments for liquor purchases.

SECTION 6: Strikes §123.31(6) which requires an applicant for a liquor control license to disclose possession of a federal gambling stamp during the licensing process. This is not needed because the Racing and Gaming Commission regulates gambling, not the Division.

This section also strikes §123.31(7), eliminating the requirement of an applicant to provide a statement of proof that security employees have been properly trained and certified, if it is required by the local licensing authority. The Division does not require proof of security training as a condition of obtaining a license or permit. Therefore, local authorities are responsible for validating security employee training/certification in compliance with their local ordinances.

SECTION 7: Amends §123.32(6)(b) by striking language that requires the Division to use certified mail to notify the local authority when an application for a license or permit has been denied. New language is inserted that authorizes the Division to use electronic notification and other means to provide notice to the local authority. This change streamlines the notification process for the Division and delivers a minimal cost saving to the state.

SECTION 8: Amends §123.33 to identify the types of business records that licensees and permittees are required to maintain and make available as needed for inspection purposes.

SECTION 9: Amends §123.34 to correctly address the treatment of six month or eight month seasonal licenses or permits. This type of license or permit expires at the end of a six-month or eight-month

season and cannot be renewed. Rather, a person with this type of business may apply for a new permit at the same location after a period of two months.

SECTION 10: Amends §123.49(2)(b) by eliminating the word “beer” in the first sentence because it is redundant. The term “alcoholic beverage” includes liquor, wine, and beer. This paragraph is further amended to clarify that the stated legal hours of sale also apply to businesses with retail wine permits.

SECTION 11: Amends by striking §123.49(2)(k), which pertains to legal hours of sale for businesses with wine permits. The legal hours of sale for all licenses and permits are now addressed in paragraph “b” due to the change in Section 10.

SECTION 12: Amends §123.51(2) to clarify for the reader how signs and branded advertising matter may be used on a licensed premises. The use of signs is also addressed in Division rule 185-16.13(3).

SECTION 13: The Division is in the process of updating its current e-licensing system and seeks to create uniform language regarding the contents of applications for wine permits and beer permits. This section amends §123.175 regarding application contents for wine permits by striking the section and restructuring it into a more logical sequence.

New §123.175(1)(b) and §123.175(1)(f) incorporate language from liquor license application contents that explains that all owners with ten percent or more interest in the business must be listed on the application and disclose any criminal convictions to ensure they meet the test of good moral character as the law requires in §123.3(34). Neither of these requirements are new; incorporating the language here will assist the applicant.

SECTION 14: Amends §123.177 by adding a new subsection allowing a class “A” wine permit holder (a native winery or wine wholesaler) to sell wine to the holder of both a class “A” and class “B” beer permit (a brewery). The authority for a brewery to sell wine in its taproom is addressed in Section 28.

SECTION 15: Amends §123.178B(4) to clarify the manner in which a native wine manufacturer may sell beer for consumption on or off the premises covered by its class “C” native wine permit. This is not a new privilege.

SECTION 16: Amends §123.180(2) to provide that the holder of a vintner’s certificate of compliance shall update the information it files with the Division as necessary to keep the listing current.

SECTION 17: Amends §123.183(2)(a) to clarify that the gallonage tax on wine is collected when the wine is sold at wholesale.

SECTION 18: Amends §123.187(2)(c) to conform with amended language regarding the application contents for wine permits in Section 13 of the bill.

OVERVIEW: DIVISION II – BEER PERMITS

- Consolidate beer manufacturing/wholesaling permits into two classes (class “A” for manufacturers and wholesalers; special class “A” for brewpubs). Combine the permits, fees, and bond requirements for beer and high alcohol content beer. Make conforming changes as necessary.
- Restructure the application contents for beer permits into a logical sequence, create consistent language for beer and wine permits, and add language that is currently incorporated by reference, which will assist the reader. Also, make conforming changes as necessary.
- Allow a retailer who makes beer (brewpub) to sell its beer to a customer in a growler for off-premises consumption and bypass the wholesale tier. Under current law a brewpub is required to sell its beer to a wholesaler and repurchase it before it can fill a growler for a customer to take home. A brewpub is still required to sell beer that is pre-packaged in cans, bottles, kegs, and other containers to a wholesaler for distribution.
- Require brewpubs to collect and report barrel tax on beer sold in growlers.
- Establish that a growler that is sealed by a class “B” beer permit holder or a class “C” liquor control license holder in compliance with the requirements of the Division shall not be deemed an open container, as long as the container is unopened and the contents have not been partially removed.
- Allow an Iowa brewery to purchase wine from a class “A” wine permittee (a native winery or wine wholesaler) for resale at retail by the glass in a taproom covered by a class “B” beer permit. This creates equal treatment: Iowa wine manufacturers may sell beer at retail on a premises covered by a class “C” native wine permit.

DIVISION II SECTION BY SECTION:

SECTION 19: Amends §123.30 to conform with the consolidation of beer permits for beer manufacturers and wholesalers.

SECTION 20: Amends by striking §123.124 and inserting new language that consolidates beer permits for beer manufacturers and wholesalers by eliminating the class “AA” and special class “AA” beer permits. The new language refers the reader to the corresponding Code section that describes the authority for each beer permit class.

SECTION 21: Amends §123.125 to conform with the consolidation of beer permits for beer manufacturers and wholesalers.

SECTION 22: The Division is in the process of updating its current e-licensing system and seeks to create uniform language regarding the contents of applications for wine permits and beer permits. This section amends §123.127 regarding application contents for beer permits by striking the section and restructuring it into a more logical sequence.

New §123.127(1)(b) and §123.127(1)(f) incorporate language from liquor license application contents that explains that all owners with ten percent or more interest in the business must be listed on the application and disclose any criminal convictions to ensure they meet the test of good moral character as the law requires in §123.3(34) Neither of these requirements are new; incorporating the language here will assist the applicant.

The bond requirement in §123.127(2)(f) is increased from \$5,000 to \$10,000. A majority of beer manufacturers/wholesalers currently post two \$5,000 bonds as a result of holding both “A” and “AA” permits. However, a small portion of permit holders holding only an “A” or “AA” permit will see an increase in the bond requirement.

SECTION 23: Amends §123.128(1)(a) to conform with new language that relates to application contents for beer permits.

SECTION 24: Amends §123.128(2) to conform with new language that relates to application contents for beer permits.

SECTION 25: Amends §123.129(1) “a” and “b” to conform with new language that relates to application contents for beer permits.

SECTION 26: Amends by striking §123.129(2)(d) to conform with new language that relates to application contents for beer permits.

SECTION 27: Amends §123.130, which pertains to the authority under a class “A” beer or a special class “A” beer permit, to conform with the consolidation of beer permits for beer manufacturers and wholesalers.

Amends §123.130(3) to allow a brewpub to sell the beer it makes at retail in a growler to customers for consumption off the premises without the beer needing to first be sold to a wholesaler. Any beer manufactured by the brewpub and intended to be sold in cans, bottles, kegs, etc. will still be required to be sold to a wholesaler. This change is made at the recommendation of Administrator Larson and Director Durham.

SECTION 28: Amends §123.131 to establish sealing requirements for beer that is sold at retail in a growler for consumption off the premises. Establishes that a growler that is sealed by a class “B” beer permit holder or a class “C” liquor control license holder in compliance with the requirements of the Division shall not be deemed an open container, as long as the container is unopened and the contents have not been partially removed. These requirements already exist for class “C” beer permit holders (grocery stores, convenience stores).

New §123.131(4) allows a beer manufacturer who also holds a class “B” beer permit (a brewery) to sell wine by the glass for consumption on the premises. In 2009, the legislature passed reciprocal language that allows native wineries to sell beer at retail on the premises covered by a class “C” native wine permit. This change is made at the recommendation of the Division and is viewed as non-controversial.

SECTION 29: Amends §123.134(1) to conform with the consolidation of beer permits for beer manufacturers and wholesalers by increasing the annual fee for a class “A” beer and a special class “A” beer permit from \$250 to \$750. A majority of beer manufacturers/wholesalers currently hold both “A” and “AA” permits and pay \$750 annually. However, a small portion of permit holders holding only an “A” or “AA” permit will see an increase in their annual permit fee.

SECTION 30: Amends by striking §123.134(2), which pertains to the fee for class “AA” beer and special class “AA” beer permits. This fee has been rolled into the annual fee for class “A” beer and special class “A” beer permits via the change in Section 29.

SECTION 31: Amends §123.135(2) to provide that the holder of a brewer’s certificate of compliance shall update the information it files with the Division as necessary to keep the listing current. Also, makes conforming changes as required related to the elimination of the class “AA” beer permit.

SECTION 32: Amends §123.136(1) to require a special class “A” permit holder (a brewpub) to report and remit barrel tax on beer that is sold in growlers for consumption off the licensed premises. This tax is currently collected by beer wholesalers, but with the change in Section 27 of the bill, brewpubs will be responsible for paying the tax. Also, makes conforming changes as required related to the elimination of the class “AA” and special class “AA” beer permits.

SECTION 33: Makes conforming changes to §123.137(1) related to the elimination of the class “AA” and special class “AA” beer permits.

SECTION 34: Makes conforming changes to §123.138(1) related to the elimination of the class “AA” and special class “AA” beer permits.

SECTION 35: Makes conforming changes to §123.139 related to the elimination of the class “AA” and special class “AA” beer permits.

SECTION 36: Makes conforming changes to §123.142 related to the elimination of the class “AA” and special class “AA” beer permits..

SECTION 37: Makes conforming changes to §123.143(3) related to the elimination of the class “AA” beer permit.

SECTION 38: Makes conforming changes to §123.144(1) related to the elimination of the class “AA” and special class “AA” beer permits.

OVERVIEW: DIVISION III – NATIVE DISTILLED SPIRITS

- Rename the terminology used to describe Iowa distilled spirits producers and their products from “micro” to “native”.
- Maintain that native distilled spirits shall be distilled, fermented, or barrel matured for a period of two years on the licensed premises of a native distillery, ensuring that the retail privileges apply only to Iowa value-added products. Equal treatment: A wine manufacturer is required to “*process in Iowa the fruit...by fermentation into wine*” to be afforded the privileges of a native winery. (see §123.56(8)). Equal treatment: “*...a person engaged in the manufacturing of beer may sell beer at retail for consumption on or off the premises of the manufacturing facility...*”. (see §123.45(2)).
- Create a two-tier structure for retail privileges for native distilleries based upon annual production:
 - Native distilleries producing not more than 100,000 gallons annually may:
 - Sell up to 9 liters per person per day of those native distilled spirits manufactured by the native distillery for off-premises consumption; and
 - If the native distiller is not also a manufacturer of beer, apply for a new class “C” native distilled spirits liquor control license allowing for the sale of those native distilled spirits manufactured by the native distillery for on-premises consumption at the native distillery.
 - Native distilleries producing more than 100,000 gallons annually may:
 - Sell up to 1.5 liters per person per day of those native distilled spirits manufactured by the native distillery for off-premises consumption.
- Allow all native distilleries, regardless of size, to provide complimentary tastes of those native distilled spirits manufactured by the native distillery to consumers visiting the native distillery.
- Allow a native distillery to sell native distilled spirits to customers outside of the state without obtaining a separate manufacturer’s license. Equal treatment: Iowa wine and beer manufacturers are not required to obtain an additional permit in order to sell at wholesale outside of Iowa.
- Allow a person holding a class “A” wine permit and operating as a native winery who also holds a class “A” native distilled spirits license to also obtain both a class “C” native wine permit allowing for by-the-glass sales of native wine and a class “C” native distilled spirits liquor control license.

DIVISION III SECTION BY SECTION:

SECTION 39: Amends §123.3(28) by replacing the term “micro-distilled spirits” with “native distilled spirits”. Amends §123.3(29) by replacing the term “micro-distillery” with “native distillery”, by replacing the word “operational” with “operating”, and by eliminating the annual 50,000 proof gallon production cap.

SECTION 40: Amends §123.30(3)(c) to establish a new class “C” native distilled spirits liquor control license. The new license authorizes a native distillery that produces not more than 100,000 gallons annually to sell native distilled spirits manufactured on the premises to customers by the glass for consumption on the premises. All native distilled spirits intended to be sold for on-premises consumption must be purchased from a class “E” licensee.

SECTION 41: Amends §123.32(1) to change the class “A” micro-distilled spirits permit to a class “A” native distilled spirits license.

SECTION 42: Creates new §123.36(3A), which establishes a \$250 fee for the new class “C” native distilled spirits liquor control license.

SECTION 43: Amends §123.36(5) to make the Sunday sales fee applicable to native distilleries holding the new class “C” native distilled spirits liquor control license that wish to sell on Sundays.

SECTION 44: Creates new §123.43, which establishes the application and issuance criteria and fee for a class “A” native distilled spirits license. The criteria are similar to the criteria for other licenses/permits.

SECTION 45: Amends §123.43A(1) to make conforming changes related to the change from “micro” to “native”. Also, clarifies that native distilled spirits manufactured on the premises may be sold for off-premises consumption, and clarifies that sales intended for resale in the state must go through the Division.

Amends §123.43A(2) to allow a native distillery producing not more than 100,000 gallons annually to sell up to 9 liters per person per day of native distilled spirits for off-premises consumption, and allow native distilleries producing more than 100,000 gallons annually to sell 1.5 liters per person per day of native distilled spirits for off-premises consumption. Also, makes conforming changes related to the change from “micro” to “native”.

Amends §123.43A(3) to make conforming changes related to the change from “micro” to “native”, and to clarify that native distilled spirits sold for off-premises consumption are not allowed to be consumed on the premises of the native distillery. Additionally, strikes the requirement that a tour of the native distillery be given prior to a consumer being given a complimentary taste of native distilled spirits.

Amends §123.43A(4) by striking the current language related to the fee for a class “A” micro-distilled spirits permit. The fee for the renamed class “A” native distilled spirits license is now found in §123.43(3). The new subsection 4 language is amended to make a conforming change related to the change from “micro” to “native”.

New §123.43A(5) is amended to establish a deadline for all reports submitted to the federal Alcohol and Tobacco Tax and Trade Bureau to also be submitted to the Division. Also, makes conforming changes related to the change from “micro” to “native”.

Creates new §123.43A(6), which allows a native distiller that produces not more than 100,000 proof gallons annually and is not also a manufacturer of beer to apply for the new class “C” native distilled spirits liquor control license. A native distiller that is also a manufacturer of native wine is eligible to apply for a class “C” native distilled spirits liquor control license. A native distillery may only be issued one class “C” native distilled spirits liquor control license. All native distilled spirits intended to be sold for on-premises consumption must be purchased from a class “E” licensee.

Strikes current §123.43A(7) because the language is incorporated into §123.43A(3). New subsection 7 allows a native distillery to sell its native distilled spirits to customers outside of the state without obtaining a separate manufacturer’s license, as required under current law.

SECTION 46: Amends §123.56(5) to allow a manufacturer of native wine who is also a manufacturer of native distilled spirits to obtain a class “C” native wine permit, allowing for the sale of native wine for on-premises consumption at a native winery.

SECTION 47: Amends §123.173A(4) and §123.173A(7) to make conforming changes related to the change from “micro” to “native”.