

A bill for an act

relating to local government; removing authority of cities to own municipal liquor stores; requiring divestiture; proposing coding for new law in Minnesota Statutes, chapter 340A; repealing Minnesota Statutes 2008, sections 340A.601; 340A.602; 340A.603; 340A.604; 426.19; 426.20; 471.6985.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[340A.605] NO MUNICIPAL LIQUOR STORES.**

No city may establish, own, or operate a municipal liquor store.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 2. **DIVESTITURE OF MUNICIPAL LIQUOR STORE.**

A city that owns or operates a municipal liquor store must sell, transfer, or otherwise divest itself of any interest in the store by January 1, 2010. Proceeds of any sale must be deposited in the city's general fund.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. **INSTRUCTION TO REVISOR.**

The revisor of statutes shall delete references to municipal liquor stores from sections 295.75, subdivision 1; 340A.405, subdivision 2; 340A.410, subdivisions 4b, and 9; 340A.412, subdivision 12; 340A.503, subdivisions 1, 4, and 6; 340A.508, subdivision 3; 340A.510; 340A.513, subdivision 1; 340A.701, subdivision 1; 340A.802, subdivision 1; and 340A.905. The revisor may rewrite the sentences containing the references to make them grammatically correct.

2.1 Sec. 4. **REPEALER.**

2.2 Minnesota Statutes 2008, sections 340A.601; 340A.602; 340A.603; 340A.604;
2.3 426.19; 426.20; 447.045; and 471.6985, are repealed effective January 1, 2010.

340A.601 ESTABLISHMENT OF MUNICIPAL LIQUOR STORES.

Subdivision 1. **Authority.** A city having a population of not more than 10,000 may establish, own, and operate a municipal liquor store which may sell at retail alcoholic beverages and (1) in the case of a municipal liquor store that sells at off-sale only, all items that may lawfully be sold in an exclusive liquor store under section 340A.412, subdivision 14, or (2) in the case of a municipal liquor store that sells at on-sale only, or at on- and off-sale, any item that may lawfully be sold in an establishment with an on-sale intoxicating liquor license. A municipal liquor store may also offer recorded or live entertainment and make available coin-operated amusement devices.

Subd. 2. **Population change.** A city which has established a municipal liquor store may continue to operate it notwithstanding a subsequent change in population.

Subd. 3. **Scope and application.** A city which established a liquor store prior to July 1, 1967, may continue to own and operate it.

Subd. 4. **Newly formed municipalities; municipal liquor stores; liquor licenses.** A city may not establish or operate a municipal liquor store or issue an on-sale or off-sale liquor license until two years after its incorporation. This restriction does not apply to a newly incorporated statutory city which had formerly been a town or is made up of a major geographic portion of what had formerly been a town, which town had the powers of a statutory city under section 368.01.

Subd. 5. **Issuance of licenses to private persons.** A city owning and operating a municipal liquor store may issue on-sale liquor licenses to hotels, clubs, and restaurants. A city issuing on-sale licenses under this subdivision may continue to operate the municipal liquor store or may resume operation of a municipal liquor store previously discontinued.

The number of on-sale licenses issued under this section by a city is governed by section 340A.413.

A city may not issue licenses under this section, other than a license issued to a club under section 340A.404, subdivision 1, clause (4), until authorized by the voters of the city voting on the question at a special election called for that purpose.

Subd. 6. **Municipalities; certain on-sale licenses.** A city which did not permit the sale of intoxicating liquor within its boundaries as of June 30, 1969, or was incorporated after that date may issue on-sale licenses for the sale of intoxicating liquor in accordance with subdivision 5.

Subd. 7. **Notice of intent.** A city which has issued retail intoxicating liquor licenses may not establish a municipal liquor store until one year after publishing a notice of its intention in the city's legal newspaper. The city must provide in the notice if the municipality will be engaging in the sale of intoxicating liquor to the exclusion of all private interests.

340A.602 CONTINUATION.

In any city in which the report of the operations of a municipal liquor store has shown a net loss prior to interfund transfer in any two of three consecutive years, the city council shall, not more than 45 days prior to the end of the fiscal year following the three-year period, hold a public hearing on the question of whether the city shall continue to operate a municipal liquor store. Two weeks' notice, written in clear and easily understandable language, of the hearing must be printed in the city's official newspaper. Following the hearing the city council may on its own motion or shall upon petition of five percent or more of the registered voters of the city, submit to the voters at a general or special municipal election the question of whether the city shall continue or discontinue municipal liquor store operations by a date which the city council shall designate. The date designated by the city council must not be more than 30 months following the date of the election.

340A.603 FINANCIAL RESPONSIBILITY.

Every municipal liquor store must demonstrate proof of financial responsibility required of licensees under section 340A.409. Proof of financial responsibility must be filed by January 15 of each year. The commissioner may suspend the operation of a municipal liquor store failing to demonstrate proof of financial responsibility until the commissioner is satisfied that the municipal liquor store is in compliance with section 340A.409. The commissioner must notify in writing the municipality operating the store of the effective date of the suspension. A suspension under this subdivision is a contested case under the Administrative Procedure Act.

340A.604 SUSPENSION OF OPERATION.

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A court shall notify the commissioner in writing within ten days whenever a municipal officer or employee has been convicted of any of the following offenses committed in a municipal liquor store:

- (1) selling alcoholic beverages to persons or at times prohibited by law;
- (2) selling alcoholic beverages for resale;
- (3) selling alcoholic beverages on which state taxes have not been paid; or
- (4) violating the provisions of section 340A.410, subdivision 5, relating to gambling and gambling devices.

On receiving the notice of conviction the commissioner may suspend for up to 30 days the operation of the municipal liquor store where the offense occurred. The commissioner must notify in writing the municipality operating the store of the effective dates of the suspension. An appeal of the suspension is a contested case under sections 14.57 to 14.69 of the Administrative Procedure Act.

426.19 MUNICIPAL LIQUOR STORE PROFITS.

Subdivision 1. **Use of.** Any city which operates a municipal liquor store from which a revenue is derived in excess of the cost of operation may use and apply such revenue for the construction, operation, repair, and maintenance of sewers and sewage disposal plants and waterworks and water mains, and for the construction, operation, repair, and maintenance of public buildings, and may irrevocably pledge any part of such revenues to the payment of bonds, warrants, or certificates of indebtedness issued for any of such purposes, including any bonds, warrants, or certificates of indebtedness which would otherwise be payable solely from a limited or special fund.

Subd. 2. **Referendum in certain cases.** Before the pledge of any such revenues to the payment of any such bonds, warrants or certificates of indebtedness, except bonds, warrants or certificates of indebtedness to construct, reconstruct, enlarge or equip a municipal liquor store shall be made, the governing body shall submit to the voters of the city the question of whether such revenues shall be so pledged and such pledge shall not be binding on the city until it shall have been approved by a majority of the voters voting on the question at either a general election or special election called for that purpose. No election shall be required for pledge of such revenues for payment of bonds, warrants or certificates of indebtedness to construct, reconstruct, enlarge or equip a municipal liquor store.

426.20 NO CITY MONEY TO LIQUOR STORE UNTIL HEARING; EXCEPTION.

No city owning and operating a municipal liquor store shall appropriate any funds to, or authorize the expenditure of any funds under its control for, the operation of the municipal liquor store unless the city council has first held a public hearing on the proposed transfer. Exceptions to the provisions of this section shall include funds for capital improvements, bonding costs and construction and repairs which can be amortized and paid from funds generated by the operation of the liquor store.

447.045 LIQUOR DISPENSARY FUND, COMMUNITY HOSPITAL.

Subdivision 1. **Home rule charter city, fourth class.** If a home rule charter city of the fourth class operates an off-sale municipal liquor dispensary, its council may appropriate not more than \$125,000 from the liquor dispensary fund to an incorporated nonprofit hospital association to build a community hospital in the city. The hospital must be governed by a board including two or more members of the city council and be open to all residents of the city on equal terms. The council must not appropriate the money unless the average net earnings of the off-sale municipal liquor dispensary have exceeded \$18,000 for the last five completed fiscal years before the date of the appropriation.

Subd. 2. **Statutory city; on-sale and off-sale store.** If the voters of a statutory city operating an on-sale and off-sale municipal liquor store, at a general or special election, vote in favor of contributing from its liquor dispensary fund toward the construction of a community hospital, the city council may appropriate not more than \$60,000 from the fund to any incorporated nonprofit hospital association to build a community hospital in the statutory city. The hospital must be governed by a board including two or more members of the statutory city council and be open to all residents of the statutory city on equal terms. This appropriation must not exceed one-half the total cost of construction of the hospital. The council must not appropriate the money unless the average net earnings of the on-sale and off-sale municipal liquor store have been at least \$10,000 for the last five completed fiscal years before the date of the appropriation.

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Subd. 3. **Statutory city; off-sale or on- and off-sale store.** (a) If a statutory city operates an off-sale, or an on- and off-sale municipal liquor store it may provide for a vote at a general or special election on the question of contributing from the city liquor dispensary fund to build, maintain, and operate a community hospital. If the vote is in favor, the city council may appropriate money from the fund to an incorporated hospital association for a period of four years. The appropriation must be from the net profits or proceeds of the municipal liquor store. It must not exceed \$4,000 a year for hospital construction and maintenance or \$1,000 a year for operation. The hospital must be open to all residents of the community on equal terms.

(b) The council must not appropriate the money unless the average net earnings of the off-sale, or on- and off-sale municipal liquor store have been at least \$8,000 for the last two completed years before the date of the appropriation.

Subd. 4. **Fourth class city operating store.** If a city of the fourth class operates a municipal liquor store, it may provide for a vote at a general or special election on the question of contributing from the profit in the city liquor dispensary fund to build, equip, and maintain a community hospital within the city limits. If the vote is in favor, the city council may appropriate not more than \$200,000 from profits in the fund for the purpose. The hospital must be open to all residents of the city on equal terms.

The city may issue certificates of indebtedness in anticipation of and payable only from profits from the operation of municipal liquor stores.

Subd. 5. **Statutory city; appropriation to hospital association.** (a) The council of a statutory city operating a municipal liquor store may appropriate funds from the store's net earnings annually to any incorporated nonprofit hospital association to help maintain and operate the hospital. The appropriation must not exceed 50 percent of the store's net earnings. Money may be appropriated if: (1) the hospital is governed by a board of directors including two or more members of the statutory city council; (2) the hospital grounds and buildings are owned by the municipality and leased to the hospital association; and (3) the hospital is open to all residents of the statutory city on equal terms.

(b) The council must not appropriate the money unless the average net earnings of the municipal liquor store has been at least \$8,000 for the last five completed fiscal years before the date of the appropriation.

Subd. 6. **Statutory city; fourth class.** If a fourth class statutory city operates a municipal liquor store, it may provide for a vote at a general or special election on the question of contributing from the city liquor dispensary fund not more than \$15,000 a year for five years to build and maintain a community hospital. If the vote is in favor the council may appropriate the money from the fund to an incorporated community hospital association in the city.

Subd. 7. **Statutory city; any store.** If a statutory city operates a municipal liquor store, it may provide for a vote at a general or special election on the question of contributing from the statutory city liquor dispensary fund toward the acquisition, construction, improvement, maintenance, and operation of a community hospital. If the vote is in favor, the council may appropriate money from time to time out of the net profits or proceeds of the municipal liquor store to an incorporated nonprofit hospital association in the statutory city. The hospital association must be governed by a board of directors elected by donors of \$50 or more, who each have one vote. The hospital must be open to all residents of the community on equal terms.

471.6985 MUNICIPAL LIQUOR STORE.

Subdivision 1. **Publish balance sheet, operations.** Any city operating a municipal liquor store shall publish a balance sheet using generally accepted accounting procedures and a statement of operations of the liquor store within 90 days after the close of the fiscal year in the official newspaper of the city. The statement shall be headlined, in a type size no smaller than 18-point: "Analysis of(city)..... municipal liquor store operations for(year)...." and shall be written in clear and easily understandable language. It shall contain the following information: total sales, cost of sales, gross profit, profit as percent of sales, operating expenses, operating income, contributions to and from other funds, capital outlay, interest paid and debt retired. The form and style of the statement shall be prescribed by the state auditor. Nonoperating expenses may not be extracted on the reporting form prior to determination of net profits for reporting purposes only. Administrative expenses charged to the liquor store by the city must be actual operating expenses and not used for any other public purpose prior to the determination of net profits. The publication requirements of this section shall be in addition to any publication or posting requirements for financial reports contained in sections 471.697 and 471.698. The statement may at the option of the city council be incorporated into the reports published pursuant to sections 471.697 and 471.698, in accordance with a form and style prescribed by the state auditor.

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Subd. 2. **If \$350,000 sales, audited statement.** Any city operating a municipal liquor store with total annual sales in excess of \$350,000 shall submit to the state auditor audited financial statements for the liquor store that have been attested to by a certified public accountant, public accountant, or the state auditor within 180 days after the close of the fiscal year, except that the state auditor may extend the deadline upon request of a city and a showing of inability to conform. The state auditor may accept this report in lieu of the report required by subdivision 1.