

CHAPTER 391—H. F. No. 956.

An act to amend Chapter 455, General Laws of Minnesota for 1919, being an act entitled, "An act to prohibit the manufacture, sale, disposition or transportation of, or the keeping or having in possession for sale, disposition or transportation, or the soliciting, receiving or taking any order for intoxicating liquor, except for certain purposes, and to regulate the manufacture, sale, disposition, transportation, possession and use of intoxicating liquor for such purposes and to provide for the enforcement of such prohibition and to provide for the suspension of laws inconsistent herewith in certain cases; to define nuisances and provide for the abatement thereof and the injunction of the person creating, keeping or maintaining or aiding in the same and providing penalties for violations of this act", and to amend Section 1 thereof, as amended by Chapter 65, Extra Session Laws of Minnesota for 1919, and Section 2, and Section 3, as amended by said Chapter 65, and Section 4, Section 5, Section 7, Section 8, Section 11, Section 14, Section 16, Section 20, Section 21, Section 23, Section 24 and Section 25, all of said chapter.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Definition of terms.—That Section 1 of Chapter 455, Laws of 1919, as amended by Chapter 65, Extra Session Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 1. Wherever used in this Act the terms 'intoxicating liquor' and 'liquor' shall include and mean ethyl alcohol and any distilled, fermented, spirituous, vinous, or malt liquor or liquid of any kind potable as a beverage whenever any of said liquors or liquid contain one half of one per cent or more of alcohol by volume; in any action or proceeding under this act, civil or criminal, the fact that any such liquor or liquid which is potable as a beverage, will when drunk, produce an intoxicating effect, shall, when established, be proof that such liquor or liquid contains one half of one per cent or more of alcohol by volume and is intoxicating within the meaning of this act; the terms 'sell' and 'sale' shall include all barter, gifts, and all means of furnishing liquor in violation or evasion of law; and the word 'physician' shall include and mean any physician, surgeon, dentist or veterinarian, duly licensed to practice and practicing as such within this state, and no other person; the word 'pharmacist' shall include and mean only any duly licensed and registered pharmacist or druggist actually carrying on business as such in good faith within this State; the word 'person' shall include and mean natural persons and corporations whether acting by themselves or by servant, agent or employe; words of singular number shall include their plurals, and words of masculine gender shall include the feminine or neuter as the case may be.

"Wherever an address or location is required to be given in this Act, it shall be held and construed to require the giving of the State,

county, town, village or city, street and street number of the residence, place or place of business as the case may be. "Nuisance" shall include the premises and every place where liquor in any quantity is manufactured, or commonly sold, or kept or had for sale, or where any order therefor is commonly taken, received or solicited contrary to the constitution or law of this state or of the United States, and all liquor found in any such place, and every bar, bar fixture, vessel, jug, container or receptacle of any kind and every still apparatus, implement, machine, device, contrivance, utensil or thing, and every tablet, compound, substance and all matter or material of any kind or nature, whether liquid or solid, and every formula, recipe or direction, any of which is apparently designed or intended for use or used therein for or in or in connection with the manufacture or sale of intoxicating liquor, or any violation of any provision or part of the constitution or law of this State or of the United States relating to intoxicating liquor. Any person, who, in any way, assists in creating, keeping or maintaining a nuisance, or who sells any liquor, liquid or any tablet, compound, substance or matter or material of any kind, or any formula, recipe or direction, or any still, apparatus, implement, machine, device, contrivance, utensil or thing of any kind with knowledge or reason to believe that the same is to be used or intended for use for or in or in connection with a nuisance or the creation, keeping or maintenance thereof, or who knowingly permits any premises or place owned, managed or controlled by him to become or remain a nuisance, shall be held to be aiding in such nuisance."

"The term "wholesale druggist" as used in this act is hereby declared to mean one who in good faith deals in drugs, chemicals, and medicines in large quantities and who sells such drugs, chemicals and medicines chiefly to retailers thereof who in turn retail the same in small quantities to the consumers."

Sec. 2. Manufacture, sale and transportation prohibited except under certain conditions.—That Section 2 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 2. The manufacture, sale or transportation or keeping or having in possession for sale or transportation of, or the taking receiving or soliciting of any order for intoxicating liquor of any kind in any quantity whatever is prohibited within this State and it shall be unlawful to have or possess any property, matter, substance or thing designed or intended for use in committing a violation of any provision or part of the constitution or law of this state or of the United States relating to intoxicating liquor, and no property right shall exist in any such property, matter, substance or thing; provided that nothing in this Act shall prevent the manufacture, sale or transportation of methyl or denatured alcohol, and provided further, that nothing in this act shall prevent the manufacture, sale

or transportation of ethyl alcohol for chemical, mechanical, medicinal, pharmaceutical, scientific or industrial purposes, or of liquor for medicinal purposes, or of wine for sacramental purposes, or the use of so much alcohol as is necessary for legitimate purposes of extraction, solution or preservation in the manufacture of anything other than a beverage, or the sale or transportation of liquor by pharmacists or wholesale druggists, all upon the conditions and under restrictions herein prescribed, and not otherwise; and provided further, that nothing in this Act shall prevent the manufacture of United States Pharmacopoeia or National Formulary preparations, upon the conditions and under the restrictions herein prescribed, and not otherwise. Provided, further, that the provisions of this section shall not be deemed to prohibit the importation and introduction into the State, by any regularly appointed and ordained priest, minister or pastor of any church or established religious organization, of wine for sacramental purposes purchased without the State."

Sec. 3. Permit to be secured from secretary of state.—That Section 3 of Chapter 455, Laws of 1919, as amended by Chapter 65, Special Session Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 3. (a) Any manufacturer of liquor or any wholesale druggist having a permit therefor from the Secretary of State as herein provided, may sell such liquor to any pharmacist upon affidavit of the pharmacist making the purchase as herein provided and not otherwise. Such affidavits shall be in the form and substance substantially as follows:

State of Minnesota

County of } ss.

I,, being first duly sworn on oath depose and say that I am a duly licensed and registered pharmacist, actually carrying on business as such at (give location) that my address is (give location) that I desire to purchase (state precisely the amount and kind of liquor) for sale for medicinal (or sacramental or other permitted purposes, as the case may be) purposes, that I will not use, nor sell, nor permit any other person to sell such liquor for any other purpose or except upon prescription or affidavit as required by law; that I now have in my possession and under my control (state precisely the amount and kind of liquor on hand) and no more.

(Signed)

Subscribed and sworn to before me this day of 19..

(Signed)

(b) Any manufacturer of ethyl alcohol having a permit as herein provided may at the place of manufacture designated in such permit, or any pharmacist, or wholesale druggist having a permit as herein provided, may, at his place of business as such pharmacist or wholesale druggist, sell such alcohol for any chemical, mechanical,

pharmaceutical, scientific, or industrial purpose or for use for the purpose of extraction, solution, or preservation in manufacture, as provided in this Act, to any person having a permit to possess such alcohol upon the affidavit of the purchaser thereof as herein provided and not otherwise. Such affidavit shall be in form and substance substantially as follows:

State of Minnesota

County of ss.

I,, being first duly sworn upon oath depose and say that I reside at (give address); that I am more than twenty-one years of age and not of intemperate habits; that I desire to purchase (state amount) of alcohol, to be used by (give name of user) located at (give location of business and residence of user); for (specify particular purpose) purposes in (state particularly the use to be made of such alcohol) that I have a permit to possess such alcohol from (name of officer issuing permit) a duplicate of which permit is on file in the office of (name officer); that I will not use any part of said alcohol for beverage purposes or sell or put the same to any unlawful use or allow any other person so to do; *that I have not violated any provision or part of the constitution or law of this state or of the United States relating to intoxicating liquor.*

(Signed)

Subscribed and sworn to before me this day of 19..

(Signed)

No more than one sale shall *in any case* be made upon any one affidavit and then only for the amount and kind of liquor specified therein and no sale shall be made on any affidavit after two weeks from the date of such affidavit.

Sec. 4. Fee to be paid and permit issued.—That Section 4 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 4. No manufacturer shall make or sell nor shall any wholesale druggist sell alcohol or liquor without a permit therefor from the Secretary of State as herein provided. The Secretary of State may upon payment to him of the sum of twenty-five (\$25.00) dollars issue a permit to manufacture and sell alcohol or liquor in accordance with the provisions of this Act, and not otherwise to any manufacturer or wholesale druggist making written application therefor as herein provided. Such application shall be in the form prescribed by the Attorney General and shall state the name, and address and business of the applicant, the location of his said business; that the applicant, if an individual is a resident and citizen of the State of Minnesota, and shall be subscribed and sworn to by the applicant, or if a corporation, by an officer thereof, making the application. All such applications shall be filed and preserved by the Secretary of State. Each such permit shall be in the form prescribed by the Attorney General of this State and shall state the

name, address and business and business location of the person to whom the same is issued and shall designate the location at which he is thereby authorized to manufacture and sell *alcohol or liquor*, and shall state that he is thereby authorized to manufacture *or sell alcohol or liquor, as the case may be*, at the location designated in such permit in accordance with the provisions of this Act and not otherwise. All such permits shall expire on July 1st of each year, unless sooner annulled. Conviction of the holder of any such permit of a second offense under the provisions of this Act shall operate as *an* immediate annulment of any such permit, and thereafter for a period of two years, no such permit shall be issued to any holder so convicted. An exact duplicate of such permit so issued shall, by the Secretary of State, be kept on file in his office and at all times be open to public inspection."

Sec. 5. Permits for possession of ethyl alcohol.—That Section 5 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 5. Permits to possess ethyl alcohol for any chemical, mechanical, pharmaceutical, scientific or industrial purpose, or for use for the purpose of extraction, solution or preservation in manufacture, as provided in this Act, may be issued to any person residing in any municipality in this State by the clerk or recorder of such municipality and to any person residing outside of any municipality in any county in this State by the county auditor of such county, upon application as herein provided, and not otherwise. Each such permit shall state the name and address of the person to whom the same is issued, *and that such person is authorized thereby to possess ethyl alcohol for any chemical mechanical, pharmaceutical, scientific or industrial purpose, and not otherwise, and shall be in the form prescribed by the Attorney General of this State.* Every such permit shall expire on July 1st of each year unless sooner annulled. Conviction of the holder of any such permit of *an* offense under the provisions of this Act shall operate as an immediate annulment of any such permit, and thereafter, for a period of two years, no permit to possess ethyl alcohol shall be issued to any holder so convicted. An exact duplicate of every such permit shall be by the officer issuing the same kept on file in his office and at all times be open to public inspection. Any person desiring a permit to possess *alcohol as herein provided shall file application therefor with the clerk or recorder of the municipality or with the auditor of the county authorized to issue the same.* Such application shall state the name, business, and business and residence location of the applicant; that the applicant desires a permit to possess ethyl alcohol for a chemical, mechanical, scientific, pharmaceutical or industrial purpose, as the case may be, and that he will not *use as a beverage or sell any such alcohol or put the same to any unlawful use.* Such application shall be in the form prescribed by the Attorney General

of this State and shall be subscribed and sworn to by the applicant if an individual, and if a corporation by an officer thereof making the application. A fee of two (\$2.00) dollars shall be paid by each applicant to the official issuing any such permit before the same shall be issued. *"Possession without a permit as herein provided, of any such ethyl alcohol after the expiration of sixty (60) days after the taking effect of this Act is hereby declared to be unlawful."*

Sec. 6. Blanks to be furnished by secretary of state.—That Chapter 455, General Laws of Minnesota for 1919, be and the same is, hereby amended by adding thereto, immediately after Section 5 thereof, a new Section designated as "Section 5 A", as follows:

"Section 5A. The Secretary of State shall cause to be printed, all necessary blank applications and permits in the form prescribed by the Attorney General and affidavits in the form prescribed by this Chapter, and supply the same to the various officers hereby authorized to issue permits and to manufacturers, wholesalers and pharmacists hereby authorized to make sales on affidavit as their needs may from time to time appear."

Sec. 7. Medicinal purposes.—That Section 7 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 7. Any pharmacist may sell intoxicating liquor for medicinal purposes upon bona fide prescription of a physician, written in ink, or printed or typewritten, and not otherwise. Such prescription shall state the name and address of the person for whom the same is prescribed, the kind and quantity of liquor, directions for its use and that the illness for which said liquor is prescribed requires such prescription, and such prescription shall be signed in ink by the physician issuing the same, and shall bear the date of its issuance and delivery. No more than one pint of liquor may be sold upon any one prescription and no prescription shall be filled more than once, nor after the expiration of one week from the date of its issuance and delivery. No physician shall prescribe for or issue or deliver to any person, nor shall any person receive more than one prescription for liquor within any period of ten days."

Sec. 8. Proceedings in court.—That Section 11 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 11. The Court, or Judge in vacation, upon the presentation of a verified complaint, specifically describing the premises, may issue an exparte order restraining, until further order of the Court, the defendant and all other persons from removing, disposing of, destroying or in any way interfering with any liquor, or any bar, bar fixture, vessel, jug, container or receptacle of any kind, or any still, apparatus, implement, machine, device, contrivance, utensil or thing, or any tablet, compound or substance, or matter or material of any kind or nature, any of which is apparently de-

signed or intended for use or used for or in or in connection with, a nuisance or the manufacture or sale of liquor, or any violation of any provision or part of the constitution or law of this state or of the United States relating to intoxicating liquor, therein and requiring the officer serving the same to search the premises or place and make and file an inventory of everything, herein mentioned, found therein, apparently so used or designed or intended for any such use. The Court or Judge may, also in such proceeding allow a temporary writ of injunction without bond if the existence of a nuisance appears to the satisfaction of the Court, or Judge, by evidence in the form of affidavits or depositions, or oral testimony or otherwise, as the complainant may elect, or the Judge by previous order shall have directed.

"If the hearing is continued at defendant's instance the temporary writ shall be granted as of course."

Sec. 9. **Convictions.**—That Section 14 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

Section 14. The conviction of any person of a nuisance shall, until reversed or set aside, be prima facie evidence against him in any abatement proceeding under this Act.

"The finding of liquor, or any bar, bar fixture, or any vessel, jug, container or receptacle of any kind, or any still, apparatus, implement, machine, device, contrivance, utensil or thing, or any tablet, compound, or substance or matter or material of any kind or nature, whether liquid or solid, or any formula, recipe or direction, any of which is apparently designed or intended for use of used for or in or in connection with the manufacture or sale of intoxicating liquor, or for or in connection with such nuisance or any violation of any provision or part of the constitution or law of this State or of the United States relating to intoxicating liquor, on any such premises or in any such place, or any sign or advertisement indicating the manufacture or sale of intoxicating liquor or the creation or existence of a nuisance on any such premises or in any such place, shall except in the case of a pharmacist or manufacturer or wholesale druggist having a permit to sell intoxicating liquor as provided herein, be prima facie evidence in any civil or criminal proceeding under this Act, that such premises or place is a nuisance."

Sec. 10. **Abatement of nuisances.**—That Section 16 of Chapter 455 of the Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 16. The Court need not find that the premises are a nuisance at the time of the trial but on finding that the material allegations of the complaint are true the Court shall make its injunctive order.

"If the existence of a nuisance be admitted or proved, an order shall be made abating and permanently enjoining the same. Such order shall direct the removal from the premises or place of all

liquor, and of every bar, bar fixture, vessel, jug, container or receptacle of any kind, and every still, apparatus, implement, machine, device, contrivance, utensil and thing, and every tablet, compound or substance and all matter and material of any kind, and every formula, recipe or direction, designed or intended for use or used for or in or in connection with such nuisance or the manufacture or sale of intoxicating liquor, or any violation of any provision or part of the constitution or law of this state or of the United States relating to intoxicating liquor, therein, and the destruction of all such liquor, and every tablet, compound or substance and all matter and material of any kind and every formula, recipe or direction, and of every such still apparatus, implement, machine, device, contrivance and utensil.

All such other things shall be sold by the sheriff as upon execution. The order shall, if the owner has notice or knowledge of such nuisance prior to the commencement of the action and negligently failed to abate the same, direct the effectual closing of the premises or place against its use for any purpose for a period of one year unless released as herein provided and shall perpetually both as to the present and the future forbid the creation, keeping or maintaining anywhere within the State of the same or any nuisance within the provisions hereof or the aiding therein, by any of the defendants."

Sec. 11. Search warrant to be issued.—That Section 20 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 20. Upon complaint before a magistrate charging any person with keeping a nuisance and particularly describing the premises, the magistrate, in addition to issuing a warrant for the arrest of such person, shall also issue a search warrant commanding an officer to search such premises and seize and hold subject to the order of the Court all liquor, and every bar, bar fixture, vessel, jug, container or receptacle of any kind, and every still, apparatus, implement, machine, device, contrivance, utensil or thing, and every tablet, compound or substance and all matter and material of any kind, whether liquid or solid, and every formula, recipe or direction, found therein, any of which is apparently designed or intended for use or used for or in or in connection with the manufacture or sale of intoxicating liquor, or any violation of any provision or part of the constitution or law of this State or of the United States relating to intoxicating liquor and make an inventory of the same and serve a copy thereof forthwith on the defendant or person in charge of the premises."

Sec. 12. Destruction of liquor.—That Section 21 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 21. If the defendant in any such criminal action be

convicted, the liquor and every tablet, compound or substance and all matter and material of any kind and every formula, recipe, or direction, and every still, apparatus, implement, machine, device, contrivance or utensil found on the premises, any of which is designed or intended for use or used for or in or in connection with the manufacture of liquor, shall be destroyed by the officer seizing the same and all other articles taken under the warrant shall be forfeited to the school fund of the county and sold by the officer as upon execution."

Sec. 13. Prosecutions by county attorney.—That Section 23, Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 23. Every sheriff, constable, marshal and policeman shall summarily arrest any person found committing any act forbidden by this Act, and make complaint against him and do all in his power to enforce the provisions of this Act. Every County Attorney shall prosecute all cases under this Act arising in his county. The President or Mayor of every municipality shall make complaint of any known violation of the provisions of this Act and the Chief of Police and all policemen shall make arrests and complaints as provided in this section, anything in the ordinance or by-laws of any such municipality to the contrary notwithstanding."

Sec. 14. Officers guilty of malfeasance.—That Section 24 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 24. Any official who shall wilfully refuse or neglect to perform any official duty imposed by this Act shall be guilty of a malfeasance in office and shall be removed therefrom and be disqualified from holding the same for and during the remainder of the term for which he was elected or appointed and shall forfeit to the State not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars, which amount may be recovered in an action against him personally or on his official bond.

"For the purpose of such removal and the recovery of such forfeiture, a verified petition in the name of the State on petitioner's relation, setting forth the facts constituting the cause for any such removal or forfeiture, may be filed, and an action maintained in the District Court of the county wherein such officer resides by any executive or prosecuting or peace officer thereof, or of any Governmental division therein, or by the Attorney General of the State or any of his assistants. Within five (5) days after the filing of any such petition, the petitioner shall serve, or cause to be served on the defendant a copy thereof, together with a summons, as in civil actions. The defendant may, within twenty (20) days after such service, serve on the petitioner or his attorney a verified answer and file the same with the Clerk of the Court wherein the cause is triable. The allegations of the answer shall be deemed to be traversed

without further pleading. Such action shall be tried by the court without a jury, and costs and disbursements therein taxed as in other civil actions and the trial shall be had within the time prescribed by Section 13 of Chapter 455, Laws of 1919.

"If the Court shall find the defendant guilty of wilful neglect or refusal to perform any duty imposed by this Chapter, he shall cause judgment to be entered against the defendant removing him from office and for the forfeiture as herein provided, together with the costs and disbursements of the action. Provided, that nothing herein contained shall modify, repeal or in any way affect any provision of existing law relating to the suspension or removal of any officer but shall be construed as in addition thereto.

"An appeal to the Supreme Court may be taken in any case arising hereunder as in other civil actions."

Sec. 15. Penalties.—That Section 25 of Chapter 455, Laws of 1919, be and the same is hereby amended so as to read as follows:

"Section 25. (a) Any person who shall manufacture or sell liquor or any pharmacist who shall sell liquor in violation of this Act shall upon conviction for a first offense be punished by imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days, and by a fine of not less than one hundred and fifty (\$150) dollars nor more than three hundred (\$300) dollars, and for a second and each subsequent offense shall be punished by imprisonment in the county jail for not less than six (6) months nor more than one (1) year, and by a fine of not less than two hundred and fifty (\$250) dollars nor more than one thousand (\$1,000) dollars.

"(b) Any person who shall create, keep or maintain a nuisance shall be guilty of a misdemeanor, and be punished by a fine of not less than fifty (\$50) dollars nor more than one hundred (\$100) dollars, or by imprisonment in the county jail not less than thirty (30) days nor more than ninety (90) days.

"(c) Any physician who shall knowingly give a false prescription for intoxicating liquor or any prescription therefor containing a false statement or who shall give a prescription for liquor for any other than medicinal purpose or to any person who is not in fact suffering from any illness shall upon conviction thereof be punished by a fine of not less than fifty (\$50) dollars nor more than three hundred (\$300) dollars, and by imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days.

"(d) Any person who shall knowingly present any false, fraudulent, forged or altered prescription or affidavit provided for or required by this Act, or who shall forge or alter any such prescription or affidavit, upon conviction thereof be punished by a fine of not less than fifty (\$50) dollars nor more than three hundred

(\$300) dollars and by imprisonment in the county jail for not less than thirty (30) nor more than ninety (90) days.

"(e) Any person who shall wilfully fail or neglect to perform any duty imposed by this Act or who shall violate any of the provisions thereof, for which no special penalty or forfeiture is prescribed herein shall upon conviction thereof for a first offense be punished by imprisonment in the county jail for not less than thirty (30) nor more than ninety (90) days and by a fine of not less than fifty (\$50) nor more than three hundred (\$300) dollars, and for a second and each subsequent offense shall be punished by imprisonment in the county jail for not less than sixty (60) days nor more than six (6) months and by a fine of not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars.

"It shall be the duty of the prosecuting officer to ascertain whether the defendant has been previously convicted and to plead prior conviction in any affidavit, information or indictment against him."

Sec. 16. **Effective June 1, 1921.**—This act shall take effect and be in force from and after June 1, 1921.

Approved April 20, 1921.

CHAPTER 392—H. F. No. 1098.

An act to promote the public health by providing protection for maternity and infancy.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. State board of health to provide instruction.—The Minnesota State Board of Health hereinafter referred to as the Board is hereby authorized to provide instruction and advice to expectant mothers during pregnancy and confinement and to mothers and their infants after childbirth; and to employ such persons as may be necessary to carry out the requirements of this Act.

Sec. 2. Instruction and advice given on application.—Such instruction, advice and care shall be given only to applicants residing within the state.

Sec. 3. Identity of applicant not to be disclosed.—No woman receiving aid under this act shall for this reason be affected thereby in any civil or political rights, nor shall her identity be disclosed except upon written order of the Board.

Sec. 4. Powers of board—Report to be made.—The Board may:

(1) Make all reasonable rules and regulations necessary to carry into effect the provisions of this act, and may amend, alter or repeal such rules or regulations;