

agreement, oral or written, whether or not incorporated in any chattel mortgage, conditional sales contract, bill of sale, lease, land contract, mortgage, deed or other instrument, wherein and whereby any retailer is required to purchase the non-intoxicating malt liquor of any manufacturer to the exclusion, in whole or in part, of the products of other manufacturers.

"(g) Any retailer who shall be a party to any violation of subsection (e) or subsection (f), or who shall receive the benefits thereof, shall be equally guilty of a violation of the provisions thereof and shall be subject to the penalty hereinafter provided.

"(h) Any person who shall violate the provisions of subsection (e) or subsection (f) hereof shall be guilty of a gross misdemeanor and each violation shall constitute a separate offense."

Sec. 2. This Act shall take effect and be in force from and after its passage.

Approved April 16, 1943.

CHAPTER 460—S. F. No. 1172.

An act relating to the manufacture and sale at wholesale of intoxicating malt liquors as herein defined; providing for the licensing and regulation thereof; prohibiting such licensees from owning or having any interest in, furnishing financial aid to, or entering into certain agreements with, any retail business engaged in selling such liquor; prohibiting retailers of such liquor from accepting financial aid from, or entering into certain agreements with, manufacturers or wholesalers of intoxicating malt liquor; prescribing penalties for the violation of this act, and repealing all acts, or parts of acts, inconsistent with the provisions hereof.

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

Section 1. **Definitions.**—Terms used in this Act, unless the context otherwise plainly requires, shall mean:

(a) "Intoxicating Malt Liquor", any liquor capable of being used for beverage purposes and which is produced wholly or in part from brewing of any grain or grains, or malt or malt substitute, containing in excess of 3.2 per cent of alcohol by weight.

(b) "Brewer", any person who shall manufacture for the purpose of sale, barter, exchange or transportation any intoxicating malt liquor.

(c) "Wholesaler", any person, other than a brewer, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in intoxicating malt liquor in quantities of not less than five standard gallons to the same person at one time, not to be consumed in or about the premises where sold.

(d) "Retailer" or "Retail Dealer", any person who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in intoxicating malt liquor in quantities of less than five standard gallons to the same person at one time.

(e) "Person", any individual, corporation, firm, partnership or association, and shall include the meaning extended thereto by Mason's Minnesota Statutes 1927, Section 10933.

(f) "Commissioner", the Liquor Control Commissioner of the State of Minnesota.

(g) "Application", a formal written request for the issuance of a license filed with, and in the form prescribed by, the Commissioner.

(h) "License", an authorization in writing issued by the Commissioner relating to the manufacture or wholesale of intoxicating malt liquor.

Sec. 2. Must be licensed—license fees.—(a) No person shall engage in business as a brewer or wholesaler of intoxicating malt liquor as defined in this Act nor shall any person, directly or indirectly, by any device, manufacture for sale or sell at wholesale any intoxicating malt liquor unless licensed to do so by the Commissioner.

(b) Application for license shall be made in writing, filed with the Commissioner in the form prescribed by him and verified by the applicant or, if a corporation, by one of its officers having knowledge of the facts. At the time of filing said application the applicant shall file with the Commissioner his bond and shall pay the license fee herein provided for.

(c) The annual fees for license shall be as follows: (1) for a brewer, the sum of \$500.00; (2) for a wholesaler, the sum of \$125.00.

A brewer holding a license to manufacture intoxicating malt liquor may sell his products at wholesale without another license.

Sec. 3. Bond.—(a) Every applicant for a license under the provisions of this Act shall, at the time of filing his application, file with the Commissioner a bond running to the State of Minnesota, with corporate surety, to be approved by the Commissioner

before granting such license. The bond of a brewer shall be in the sum of \$5,000.00 and the bond of a wholesaler shall be in the sum of \$1,000.00. Any applicant may, in lieu of such bond, make a deposit with the Commissioner of cash or United States Government bonds in the same amount as that hereinbefore required for bond of such applicant.

(b) All bonds or deposits shall be conditioned as follows: (1) that the licensee shall obey the law relating to such licensed business; (2) that the licensee shall pay to the state, when due, all taxes, license fees, penalties and other charges payable by him under any law relating to the manufacture, distribution or sale of intoxicating malt liquor; (3) that, in the event of any violation of the provisions of this Act or any law of the State of Minnesota relating to the manufacture, distribution or sale of intoxicating malt liquor, such bond shall be forfeited to the State of Minnesota.

(c) Upon the filing of said application, the approval of the bond and the payment of the license fee, the Commissioner shall grant the license unless it shall appear that the applicant: (1) is not a citizen of the United States; or (2) is not over 21 years of age; or (3) has been convicted of a felony under the laws of this state; or (4) has had his license revoked within a period of one year prior to the filing of his application. In the event that the applicant is a corporation the managing officers must possess the same qualifications herein stated.

All licenses shall be issued for a period of one year. No person now holding a license for the manufacture or sale at wholesale of intoxicating malt liquor shall be required to obtain a license under the provisions of this Act until the expiration of the period for which such existing license was issued but such licensee shall be subject to all other provisions of this Act.

Sec. 4. Existing licenses to remain in effect.—(a) Any license issued under the provisions of this Act and any license heretofore issued for the manufacture or sale at wholesale of intoxicating malt liquor shall remain in effect during the period for which such license was issued unless surrendered by the licensee or suspended or revoked by the Commissioner in the manner provided in this Act. The Commissioner is hereby authorized, after notice to the licensee and an opportunity to be heard, upon proof of willful violation by the licensee of any provisions of this Act or of any prior or subsequent violation of any law of this state relating to the manufacture or sale at wholesale of intoxicating malt liquor, to suspend for a period not exceeding 60 days or to revoke such license whether issued under the provisions of this Act or issued prior to the passage of this Act. It shall be the

duty of the Commissioner, upon receiving information of violation by any licensee of any provisions of this Act or of any prior or subsequent violation of any law of this state relating to the manufacture or sale at wholesale of intoxicating malt liquor, to make an immediate investigation thereof. If, after such investigation, the Commissioner shall determine that there is probable cause to believe that the licensee has willfully violated the provisions of this Act or any law of this state relating to the manufacture or sale at wholesale of intoxicating malt liquor and that the violation is of such a nature as to warrant suspension or revocation of license, he shall make and file a complaint, in writing, which complaint shall state the facts constituting the alleged violation of the law. A copy of said complaint, together with a notice of hearing thereon, shall be served upon the licensee in the manner provided by statute for the service of a summons in a civil action. The notice shall state the time of hearing which shall be not less than 20 days after the service of said notice. All hearings shall be open to the public and shall be held at the office of the Commissioner. For the purpose of conducting said hearings the Commissioner is hereby authorized to subpoena witnesses and administer oaths.

(b) After said hearing the Commissioner shall make and file findings of fact as to each violation of law alleged in the complaint and shall make and file his order dismissing the proceedings or suspending or revoking the license. The findings of fact and order of the Commissioner shall be served upon the licensee in the manner provided by statute for the service of a summons in a civil action. If said order shall suspend or revoke the license, such suspension or revocation shall take effect and be in force and the right of the licensee to operate thereunder shall terminate ten days after the service of the order of the Commissioner, except in the event of a stay on appeal as hereinafter provided.

(c) When, in any proceedings under this section, the Commissioner shall find that the licensee has violated any provision of this Act or any laws of this state relating to the manufacture or wholesale of intoxicating malt liquor but that the nature of such violation or the circumstances thereof are such that a suspension of the license would be adequate, he may, instead of revoking the license, suspend it for a period not exceeding 60 days. During the period of such suspension the licensee shall exercise no rights under the license.

(d) Any licensee whose license is suspended or revoked by the Commissioner may appeal from such order of suspension or revocation to the District Court of the county in which the licensee maintains his principal place of business, which appeal

shall be taken by service of written notice thereof upon the Commissioner within ten days after service upon the licensee of the order of suspension or revocation appealed from and by filing with the Clerk of said District Court, within ten days after service, the notice of appeal with proof of service thereof upon the Commissioner. The perfecting of an appeal shall operate to stay all proceedings until the final determination thereof. In the notice of appeal and in the proceedings upon appeal the Commissioner shall be named as the plaintiff and the licensee as the defendant. Upon the appeal being perfected, the Commissioner shall forthwith certify to the court the complete record in the proceedings and the court shall thereupon fix a time and place for hearing, due notice of which hearing shall be given to the parties. Upon the appeal to the District Court the hearing shall be *de novo* to the court without a jury and shall be conducted in the manner provided by statute for the trial of a civil action. The court shall make its findings of fact and its order either dismissing the proceedings or suspending the license for a period not exceeding 60 days or revoking said license.

(e) Either party may appeal from the final judgment of the District Court, or from any final order therein, in the same manner as in a civil action, within ten days after service of notice of the filing of such judgment or final order. No bond on appeal shall be required. The perfecting of an appeal to the Supreme Court shall operate to stay all proceedings until the final determination of said appeal. The Commissioner shall not refuse to issue a license to any licensee during the time that an appeal from an order of suspension or revocation of license is pending.

(f) When any license has been revoked no license shall be issued to such person within one year from the date of such order of revocation or, in the event of an appeal, within one year from the date of the judgment or final order of the court affirming such order of revocation.

Sec. 5. Not to be interested in retail business.—No brewer or wholesaler shall, either directly or indirectly, own or control, or have any financial interest in, any retail business selling intoxicating malt liquor; but this restriction shall not be construed to deny such person the right to use or have his property rented for such purpose in any case where the brewer or wholesaler was a bona fide owner of the premises prior to November 1, 1933. No brewer or wholesaler shall, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner thereof, give, lend or advance any money, credit or other thing of value to any retailer or to any person for the benefit or relief of any retailer, nor furnish, give, lend, lease or sell to any person any furniture, fixtures, fittings or equipment; nor shall

any brewer or wholesaler, directly or indirectly, have any interest in, or pay for, any retail license, or advance, furnish, lend or give money for the payment of retail license fees or any expense incident to the obtaining of such license; nor shall any brewer or wholesaler become bound in any manner, directly or indirectly, for the repayment of any loan made to, or the fulfillment of any financial obligation of, any retailer, except that brewers or wholesalers may: (1) extend to retailers the usual and customary commercial credits for products of the industry actually sold and delivered; (2) furnish to retailers the containers of consumable products of the industry actually sold and delivered and may recover the same, or the value thereof, if such containers are not returned; (3) furnish, lend or rent outside signs to retailers, provided the cost of such signs, in the aggregate, furnished, lent or rented by any brewer or wholesaler to any retailer, including signs authorized by Mason's Supplement 1940, Section 3200-6 and acts amendatory thereof, shall not exceed \$100.00, exclusive of erection, installation and repair charges; but nothing herein shall be construed as affecting signs owned and located in the state on the effective date hereof by any such brewer or wholesaler; (4) furnish inside signs, miscellaneous advertising matter and other items not to exceed, in the aggregate, including similar items authorized by Mason's Supplement 1940, Section 3200-6 and acts amendatory thereof, a cost of \$25.00 in any calendar year to any one retailer; (5) furnish or maintain for retailers such equipment as is designed and intended to preserve and maintain the sanitary dispensing of intoxicating malt liquors, provided the expense incurred thereby does not exceed the sum of \$25.00 per tap per calendar year, no part of which shall be paid in cash to any retailer; (6) acquire within ten days after the effective date hereof any furniture, fixtures, fittings and equipment, or any valid lien thereon or interest therein, which were actually installed on the premises of any retailer prior to the effective date hereof; (7) lease or lend to the owner of the premises, or to any retailer now or hereafter occupying the premises, any furniture, fixtures, fittings and equipment actually located on said premises on the effective date hereof. Any such brewer or wholesaler who, within ten days after the effective date hereof, owns any furniture, fixtures, fittings or equipment in possession of any retailer on the effective date hereof may, within 90 days after said effective date, sell the same to such retailer only for cash on delivery and deliver a bill of sale to the same.

Sec. 6. Not to make exclusive contracts.—No brewer or wholesaler shall hereafter, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner, enter into any agreement, oral or written, whether or not incorporated in any chattel mortgage, conditional sales

contract, bill of sale, lease, land contract, mortgage, deed or other instrument, wherein and whereby any retailer is required to purchase the intoxicating malt liquor of any brewer to the exclusion, in whole or in part, of the products of other brewers.

Sec. 7. **Who are violators.**—Any retailer who shall be a party to any violation of Section 5 or Section 6 of this Act, or who shall receive the benefits thereof, shall be equally guilty of a violation of the provisions thereof and shall be subject to the penalty hereinafter provided.

Sec. 8. **Violation a gross misdemeanor.**—Any person who shall violate the provisions of this Act shall be guilty of a gross misdemeanor and each violation shall constitute a separate offense.

Sec. 9. **Inconsistent acts repealed.**—All Acts, or parts of Acts, inconsistent with the provisions of this Act are hereby repealed.

Sec. 10. *This Act shall take effect and be in force from and after its passage.*

Approved April 16, 1943.

CHAPTER 461—S. F. No. 1281.

An act relating to the appointment, tenure of office, and salary of stenographic reporters of the municipal court of the city of Minneapolis, Hennepin County, Minnesota, and amending Laws 1909, Chapter 225, as amended.

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

Section 1. **Law amended—term of office of stenographic reporters in the city of Minneapolis—salary.**—Laws 1909, Chapter 225, Section 1, as amended by Laws 1913, Chapter 517, Section 1, by Laws 1919, Chapter 331, Section 1, by Laws 1929, Chapter 128, Section 1, and by Laws 1941, Chapter 30, Section 1, is hereby amended so as to read as follows:

Each judge of the municipal court of the City of Minneapolis may appoint a stenographic reporter, who shall be well skilled in his profession and competent to discharge the duties required. This stenographic reporter shall be a sworn officer of the court, and hold his office during the pleasure of the judge appointing him, notwith-