

Presented to the governor May 19, 1995

Signed by the governor May 22, 1995, 7:38 p.m.

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CHAPTER 196—S.F.No. 537

VETOED

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CHAPTER 197—H.F.No. 431

VETOED

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CHAPTER 198—H.F.No. 1132

*An act relating to alcoholic beverages; providing restrictions on brewers who have retail on-sale licenses; imposing licensing and permitting requirements; requiring a license for charging for possession of alcoholic beverages; requiring a permit to allow consumption and display of all alcoholic beverages; authorizing additional licenses in Minneapolis; authorizing Clay, Stearns, and St. Louis counties and the city of International Falls to issue on-sale licenses; requiring a study of application of primary source law; defining home brewing equipment; listing items that may be sold in exclusive liquor stores; repealing requirement for permit for transportation of alcoholic beverages; amending Minnesota Statutes 1994, sections 340A.101, subdivisions 10, 25, and by adding a subdivision; 340A.301, subdivisions 6 and 7; 340A.401; 340A.404, subdivision 2, and by adding a subdivision; 340A.412, by adding a subdivision; and 340A.414, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 340A; repealing Minnesota Statutes 1994, sections 340A.301, subdivision 10; and 340A.32.*

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

Section 1. Minnesota Statutes 1994, section 340A.101, subdivision 10, is amended to read:

Subd. 10. **EXCLUSIVE LIQUOR STORE.** "Exclusive liquor store" is an establishment used exclusively for the sale of intoxicating liquor ~~except for the incidental sale of ice, tobacco, 3.2 percent malt liquor, beverages for mixing with intoxicating liquor, soft drinks, liqueur-filled candies, cork extraction devices, and books and videos on the use of alcoholic beverages in the preparation of food; and the establishment may offer recorded or live entertainment.~~ "Exclusive liquor store" also includes an on-sale or combination on-sale and off-sale intoxicating liquor establishment which sells food for on-premise consumption

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when authorized by the municipality issuing the license those items authorized in section 340A.412, subdivision 14.

Sec. 2. Minnesota Statutes 1994, section 340A.101, is amended by adding a subdivision to read:

Subd. 12a. HOME BREWING EQUIPMENT. "Home brewing equipment" means portable equipment designed for use in home manufacturing of malt liquor in quantities of ten gallons or less and supplies and ingredients for home manufacture of malt liquor.

Sec. 3. Minnesota Statutes 1994, section 340A.101, subdivision 25, is amended to read:

Subd. 25. **RESTAURANT.** "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for guests in the following minimum numbers: as prescribed by the appropriate license issuing authority.

(a) First class cities	50
(b) Second and third class cities and statutory cities of over 10,000 population	30
(c) Unincorporated or unorganized territory other than in Cook, Itasca, Lake, Lake of the Woods, and St. Louis counties	100
(d) Unincorporated or unorganized territory in Cook, Itasca, Lake, Lake of the Woods, and St. Louis counties	50

In the case of classes (b) and (c) above, the governing body of a city or county may prescribe a higher minimum number. In fourth class cities and statutory cities under 10,000 population, minimum seating requirements are those prescribed by the governing body of the city.

Sec. 4. Minnesota Statutes 1994, section 340A.301, subdivision 6, is amended to read:

Subd. 6. **FEES.** The annual fees for licenses under this section are as follows:

(a) Manufacturers (except as provided in clauses (b) and (c))	\$15,000
Duplicates	\$ 3,000
(b) Manufacturers of wines of not more than 25 percent alcohol by volume	\$ 500

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(c) Brewers other than those described in clauses (d) and (i)	\$ 2,500
(d) <del>Brewers who also hold a one or more retail on-sale license licenses and who manufacture fewer than 3,500 barrels of malt liquor in a year, except as provided in subdivision 10 at any one licensed premises,</del> the entire production of which is solely for consumption on tap on the licensed premises. <u>A brewer licensed under this clause must obtain a separate license for each licensed premises where the brewer brews malt liquor. A brewer licensed under this clause may not be licensed as an importer under this chapter</u>	\$ 500
(e) Wholesalers (except as provided in clauses (f), (g), and (h))	\$15,000
Duplicates	\$ 3,000
(f) Wholesalers of wines of not more than 25 percent alcohol by volume	\$ 2,000
(g) Wholesalers of intoxicating malt liquor	\$ 600
Duplicates	\$ 25
(h) Wholesalers of 3.2 percent malt liquor	\$ 10
(i) Brewers who manufacture fewer than 2,000 barrels of malt liquor in a year	\$ 150

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee, the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

Sec. 5. Minnesota Statutes 1994, section 340A.301, subdivision 7, is amended to read:

Subd. 7. **INTEREST IN OTHER BUSINESS.** (a) Except as provided in this subdivision, a holder of a license as a manufacturer, brewer, importer, or wholesaler may not have any ownership, in whole or in part, in a business holding a retail intoxicating liquor or 3.2 percent malt liquor license. The commissioner may not issue a license under this section to a manufacturer, brewer, importer, or wholesaler if a retailer of intoxicating liquor has a direct or indirect interest in the manufacturer, brewer, importer, or wholesaler. A manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales only if the manufacturer or wholesaler has owned the property continuously since November 1, 1933. A retailer of intoxicating liquor may not use or have property rented for the manufacture or wholesaling of intoxicating liquor.

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(b) ~~A licensed brewer of malt liquor described in licensed under~~ subdivision 6, clause (d) may be issued an on-sale intoxicating liquor or 3.2 percent malt liquor license by a municipality for a restaurant operated in ~~or immediately adjacent to~~ the place of manufacture. Malt liquor brewed by such a licensee may not be removed from the licensed premises unless the malt liquor is entered in a tasting competition where none of the malt liquor so removed is sold. A brewer licensed under subdivision 6, clause (d), may hold or have an interest in other retail on-sale licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of, any other manufacturer, brewer, importer, or wholesaler, or be an affiliate thereof whether the affiliation is corporate or by management, direction, or control. Notwithstanding this prohibition, a brewer licensed under subdivision 6, clause (d), may be an affiliate or subsidiary company of a brewer licensed in Minnesota or elsewhere if that brewer's only manufacture of malt liquor is:

(i) manufacture licensed under subdivision 6, clause (d);

(ii) manufacture in another state for consumption exclusively in a restaurant located in the place of manufacture; or

(iii) manufacture in another state for consumption primarily in a restaurant located in or immediately adjacent to the place of manufacture if the brewer was licensed under subdivision 6, clause (d), on January 1, 1995.

(c) Except as provided in subdivision 7a, no brewer as defined in subdivision 7a ~~or importer~~ may have any interest, in whole or in part, directly or indirectly, in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.

#### Sec. 6. [340A.33] BREW ON PREMISES STORE.

Notwithstanding anything in this chapter, the owner of a brew on premises store shall not be considered a brewer, manufacturer, wholesaler, or retailer of intoxicating liquor if the owner complies with this section and with Code of Federal Regulations, title 27, part 25, subpart L, sections 25.205 and 25.206. For purposes of this section, a brew on premises store is a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Alcoholic beverages may not be sold or otherwise provided to customers of a brew on premises store, unless the owner of the brew on premises store holds the appropriate liquor license. Customers using the brew on premises store must be of the minimum age required to purchase intoxicating liquor. Malt liquor brewed by a customer in the store must not be sold and must be used by the customer solely for personal or family use.

Sec. 7. Minnesota Statutes 1994, section 340A.401, is amended to read:

#### 340A.401 LICENSE REQUIRED.

Except as provided in this chapter, no person may directly or indirectly, on

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any pretense or by any device, sell, barter, keep for sale, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license.

Sec. 8. Minnesota Statutes 1994, section 340A.404, subdivision 2, is amended to read:

Subd. 2. **SPECIAL PROVISION; CITY OF MINNEAPOLIS.** (a) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theatre, the Cricket Theatre, the Orpheum Theatre, and the State Theatre, notwithstanding the limitations of law, or local ordinance, or charter provision relating to zoning or school or church distances. The licenses authorize sales on all days of the week to holders of tickets for performances presented by the theatres and to members of the nonprofit corporations holding the licenses and to their guests.

(b) The city of Minneapolis may issue an intoxicating liquor license to 510 Groveland Associates, a Minnesota cooperative, for use by a restaurant on the premises owned by 510 Groveland Associates, notwithstanding limitations of law, or local ordinance, or charter provision.

(c) The city of Minneapolis may issue an on-sale intoxicating liquor license to Zuhrah Shrine Temple for use on the premises owned by Zuhrah Shrine Temple at 2540 Park Avenue South in Minneapolis, notwithstanding limitations of law, or local ordinances, or charter provision relating to zoning or school or church distances.

(d) The city of Minneapolis may issue an on-sale intoxicating liquor license to the American Association of University Women, Minneapolis branch, for use on the premises owned by the American Association of University Women, Minneapolis branch, at 2115 Stevens Avenue South in Minneapolis, notwithstanding limitations of law, or local ordinances, or charter provisions relating to zoning or school or church distances.

(e) The city of Minneapolis may issue an on-sale wine license and an on-sale 3.2 percent malt liquor license to a restaurant located at 5000 Penn Avenue South, notwithstanding any law or local ordinance or charter provision.

Sec. 9. Minnesota Statutes 1994, 340A.404, is amended by adding a subdivision to read:

Subd. 12. CATERER'S PERMIT. The commissioner may issue a caterer's permit to a restaurant that holds an on-sale intoxicating liquor license issued by any municipality. The holder of a caterer's permit may sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the holder's on-sale intoxicating liquor license is issued.

(a) A caterer's permit is auxiliary to the primary on-sale license held by the licensee.

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(b) The restrictions and regulations which apply to the sale of intoxicating liquor on the licensed premises also apply to the sale under the authority of a caterer's permit, and any act that is prohibited on the licensed premises is also prohibited when the licensee is operating other than on the licensed premises under a caterer's permit.

(c) Any act, which if done on the licensed premises would be grounds for cancellation or suspension of the on-sale licensee, is grounds for cancellation of both the on-sale license and the caterer's permit if done when the permittee is operating away from the licensed premises under the authority of the caterer's permit.

(d) The permittee shall notify prior to any catered event:

(1) the police chief of the city where the event will take place, if the event will take place within the corporate limits of a city; or

(2) the county sheriff of the county where the event will take place, if the event will be outside the corporate limits of any city.

(e) If the primary license ceases to be valid for any reason, the caterer's permit ceases to be valid.

(f) Permits issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except those laws and ordinances which by their nature are not applicable.

(g) The annual state fee for a caterer's permit is \$200.

Sec. 10. Minnesota Statutes 1994, section 340A.412, is amended by adding a subdivision to read:

Subd. 14. EXCLUSIVE LIQUOR STORES. (a) Except as otherwise provided in this subdivision, an exclusive liquor store may sell only the following items:

(1) alcoholic beverages;

(2) tobacco products;

(3) ice;

(4) beverages for mixing with intoxicating liquor;

(5) soft drinks;

(6) liqueur-filled candies;

(7) food products that contain more than one-half of one percent alcohol by volume;

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(8) cork extraction devices;

(9) books and videos on the use of alcoholic beverages;

(10) magazines and other publications published primarily for information and education on alcoholic beverages; and

(11) home brewing equipment.

(b) An exclusive liquor store that has an on-sale, or combination on-sale and off-sale license may sell food for on-premise consumption when authorized by the municipality issuing the license.

(c) An exclusive liquor store may offer live or recorded entertainment.

Sec. 11. Minnesota Statutes 1994, section 340A.414, subdivision 1, is amended to read:

Subdivision 1. **PERMIT REQUIRED.** No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of ~~intoxicating liquor~~ alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the commissioner.

#### Sec. 12. CLAY COUNTY; ON-SALE LICENSE.

Notwithstanding any state or local law or charter provision, the Clay county board may issue one on-sale intoxicating liquor license to a premises located in Elkton township. The license is not subject to the requirements of Minnesota Statutes, section 340A.101, subdivision 25. The license is subject to all other provisions of Minnesota Statutes, chapter 340A.

#### Sec. 13. ST. LOUIS COUNTY; ON-SALE LICENSE.

Notwithstanding any state or local law or charter provision to the contrary, the St. Louis county board may issue one on-sale intoxicating malt liquor license to an establishment located in township 65, range 18, section 33. The county board shall set the fee for the license. The license is subject to all provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section.

#### Sec. 14. INTERNATIONAL FALLS; TEMPORARY LICENSE.

Notwithstanding any law to the contrary, the city of International Falls may issue to a nonprofit organization or corporation a temporary on-sale license for the sale and serving of intoxicating liquor in a sports arena owned by independent school district No. 361. The license authorized under this section is valid for not more than seven consecutive days during the months of June and July 1995. The license is in addition to the number of temporary on-sale licenses authorized by law. The city shall determine the fee for the license. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license authorized by this section.

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**Sec. 15. STEARNS COUNTY; ON-SALE LICENSE.**

Notwithstanding Minnesota Statutes, section 340A.412, subdivision 4, paragraph (a), clause (9), or any local law or charter provision, the Stearns county board may issue one combination off-sale and on-sale intoxicating liquor license to a premises located in Farming township. The license is subject to all provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section.

**Sec. 16. PRIMARY SOURCE STUDY.**

The house research department and office of senate counsel and research shall study issues relating to the extension of Minnesota Statutes, section 340A.311, paragraph (c), to include distilled spirits. The study shall include findings but shall not include recommendations on changes in law or rules. The house research department and office of senate counsel and research shall jointly report their findings to the chairs of the legislative committees and divisions with jurisdiction over alcoholic beverage law and policy by March 1, 1996.

**Sec. 17. REPEALER.**

Minnesota Statutes 1994, section 340A.301, subdivision 10; and 340A.32, are repealed.

**Sec. 18. EFFECTIVE DATE.**

Sections 1 to 7, 9 to 11, and 16 to 17 are effective the day following final enactment. Section 8 is effective on approval by the Minneapolis city council and compliance with Minnesota Statutes, section 645.021. Section 12 is effective on approval by the Clay county board and compliance with Minnesota Statutes, section 645.021. Section 13 is effective on approval by the St. Louis county board and compliance with Minnesota Statutes, section 645.021. Section 14 is effective on approval by the International Falls city council and compliance with Minnesota Statutes, section 645.021. Section 15 is effective on approval by the Stearns county board and compliance with Minnesota Statutes, section 645.021.

Presented to the governor May 22, 1995

Signed by the governor May 22, 1995, 7:20 p.m.

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**CHAPTER 199—H.F.No. 1055**

*An act relating to waters; eliminating the position of board of water and soil resources secretary; increasing board members' compensation; duties of advisory committees; rule approval procedure; guidelines for management plans; exemptions from review; appeals from rules, permit decisions, and orders; informal dispute resolution; assessment basis; benefits or damages to state-owned land; property acquisition procedures; water resource studies and programs; eminent domain procedure; amending Minnesota Statutes 1994, sections*

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