

THE 79
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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AND A GENERAL INDEX BY THE EDITORIAL STAFF OF THE NATIONAL
REPORTER SYSTEM

COMPLETE IN TWO VOLUMES

VOL. 1

CONTAINING THE CONSTITUTION OF THE UNITED STATES, THE ORDINANCE OF 1787,
THE ORGANIC ACT, ACT AUTHORIZING A STATE GOVERNMENT, THE STATE
CONSTITUTION, THE ACT OF ADMISSION INTO THE UNION, AND

Sections 1 to 4821 of the General Statutes

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WEST PUBLISHING CO.

1894

CHAPTER 16.

INTOXICATING LIQUORS.¹

See § 6968, as to sale of intoxicating liquors near camp meeting.
 § 7022, as to penalty for adulteration of intoxicating liquors.

§ 1990. Licenses for sale of liquors—Vote of township.

The board of county commissioners may grant licenses for the sale, in any quantity, of spirituous, vinous, or fermented and malt liquors within their proper counties, to any person of the age of twenty-one years, upon his complying with the conditions of the next section: provided, that nothing herein contained shall be so construed as to prevent the people of any municipal township from deciding for themselves whether license shall be granted to any person or persons in said township; and the town clerk is hereby required, on the petition of ten or more legal voters of said township, at any time not less than twenty days before any annual town meeting, to give notice that the question of license will be submitted at said election; and notice thereof shall be given by said town clerk at the same time and in the same manner that notice of annual town meetings are given; and said question of license shall be determined by ballots, containing the words "in favor of license," or "against license," (as the case may be,) which vote shall be canvassed and returned as is by law prescribed for canvassing election returns; and if such returns show that a majority of the votes cast at said election shall be against license, then it shall be the duty of the town clerk to notify the county auditor thereof, and in such case the board of county commissioners shall grant no license in said township.

(G. S. 1866, c. 16, § 1, as amended 1875, c. 112, § 1; G. S. 1878, c. 16, § 1.)

The charter of the city of Rushford has the effect to substitute the city council for the board of county commissioners, as respects the granting of licenses to sell, etc., within the limits of the city. *State v. Pfeifer*, 26 Minn. 175, 2 N. W. Rep. 474.

See *State v. Orth*, and other cases, cited in note to § 1993, and *State v. Peterson* and *State v. Harris*, cited in note to § 1999.

§ 1991. Fee for license—Bond.

Any person applying for license to sell intoxicating liquors shall, before the same is issued, pay to the county treasurer of the proper county a sum not greater than one hundred dollars nor less than twenty-five dollars per annum, at the discretion of the board of county commissioners, and shall file with the clerk thereof a bond with two or more sureties, to be approved by the board, in the penal sum of five hundred dollars, conditioned that the said person so licensed will not sell or otherwise dispose of spirituous, intoxicating or malt liquors, (as the case may be,) at any place other than the building or town for which said person is licensed, nor on the sabbath, nor on any general or special election day, and that he will keep a quiet and orderly house, and not permit gambling with cards or any other device for money or the representative of money, in the house or place of business of such person, and will not sell, barter, furnish nor give away such liquors to any minor person, pupil or student in any public school, academy, seminary, or other institution of learning, nor to any intemperate person or habitual drunkard.

(G. S. 1866, c. 16, § 2, as amended 1872, c. 61, § 1; G. S. 1878, c. 16, § 2.)

The commissioners have no right to grant licenses except on application in each case by the person desiring the license. The sum to be paid, and sufficiency of the bond, are

1990-1993
 95 - 191

1990
 95 - 259
 69-M - 423
 72-NW 700

1990-2038
 99 - 96

1990-2038
 01 - 101
 01 - 292

1990: 05 . 298
 2038.

¹ See special laws in reference to the sale of liquor in certain counties, as follows:

- Dodge, 1879, c. 46.
- Faribault, 1879, c. 54.
- Hennepin, 1881, c. 383.
- Mower, 1879, c. 23.
- Nobles, 1883, c. 38.
- Rice, 1879, c. 77; 1881, Ex. S. c. 381.
- Waseca, 1879, c. 41.
- Watsonwan, 1879, c. 25.
- Yellow Medicine, 1881, Ex. S. c. 1.

MINNESOTA STATUTES 1894

§§ 1991-1993

INTOXICATING LIQUORS.

[Ch. 16

to be passed upon by the board, and the duty cannot be delegated to any one. *Commissioners Hennepin Co. v. Robinson*, 16 Minn. 381, (Gil. 340.)

§ 1992. Revocation of license.

The board of county commissioners may revoke any license granted under the provisions of this chapter, whenever they deem it proper; and every license granted by any board of commissioners shall cease to be in force from and after any violation of any of the conditions of the bond required by this chapter is proved before any court having competent jurisdiction; and thereafter the person who has so violated the conditions of the said bond shall be liable to all the penalties imposed on persons selling liquors without license, and shall be further liable for all damages done by persons intoxicated by liquors obtained from him; and the sureties on said bond shall be jointly and severally liable with the principal for the payment of said damages, to be recovered in a civil action.

(G. S. 1866, c. 16, § 3, as amended 1872, c. 61, § 2; G. S. 1878, c. 16; § 3.)

§ 1993. Selling liquor without license—Penalty.

Whoever sells or barterers any spirituous, vinous, fermented or malt liquors, in a less quantity than five gallons, without first having obtained license therefor, agreeably to the provisions of this chapter, or disposes of any spirituous, vinous, fermented or malt liquors, under any pretext, or in any manner, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court having jurisdiction of the same, be fined for every such offence in any sum not exceeding one hundred dollars, nor less than twenty-five dollars, for the use of common schools in the county where the offence is committed; and upon default of the payment of such fine, he shall be committed to the county jail for a term not exceeding sixty days, or until such fine is paid.

(G. S. 1866, c. 16, § 4, as amended 1867, c. 103, § 1; G. S. 1878, c. 16, § 4.)

An indictment for selling after a vote against the granting of licenses, pursuant to Sp. Laws 1877, c. 51, should be under § 3 of that chapter, not under this chapter. *State v. Hanley*, 25 Minn. 429.

After a town has voted against license, pursuant to § 1990, an indictment may be found under § 1993 against one who sells in the town without license. The vote of the town does not affect the offense described by that section. Limiting *State v. Hanley, supra*. *State v. Funk*, 27 Minn. 318, 7 N. W. Rep. 359. The provisions of c. 32, Laws 1870, that municipal townships may vote upon the question of granting licenses for the sale of liquors in such township, do not avoid the necessity of license from the county commissioners in any case, or affect the liability under this section of one selling without license, whether the township has voted in favor of license, or failed to vote against its being granted. *State v. Cron*, 23 Minn. 140.

The offense created by this section is indictable—Sufficiency of indictment. *State v. Kobe*, 26 Minn. 148, 1 N. W. Rep. 1051.

In a prosecution for selling without a license, the burden of proving license is upon the defendant. *State v. Schmail*, 25 Minn. 370.

Section cited, *State v. Deusting*, 33 Minn. 102, 22 N. W. Rep. 442.

G. S. 1878, c. 16, and Laws 1887, cc. 5-8, 81, do not apply to exclusively wholesale dealers, who sell to other dealers, so as to make it necessary for them to take out licenses. *State v. Orth*, 33 Minn. 150, 36 N. W. Rep. 103.

The sale in quantities less than five gallons without license is illegal, though made by a wholesale dealer, and the liquor be in a corked bottle, and not to be drunk on the premises. *State v. Benz*, 41 Minn. 30, 42 N. W. Rep. 547; *State v. Brackett*, 41 Minn. 33, 42 N. W. Rep. 548.

A brewer cannot sell in less quantities than five gallons without a license. *State v. Schroeder*, 43 Minn. 231, 45 N. W. Rep. 149.

The necessity of a license depends entirely on whether the sale is of less than five gallons. *State v. Schroeder*, 45 Minn. 44, 47 N. W. Rep. 303.

An ordinance prohibiting sales without a license, not specifying any quantity, is valid, certainly as to sales of quantities less than five gallons. *State v. Priester*, 43 Minn. 373, 45 N. W. Rep. 712.

By force of Laws 1887, c. 6, § 4 (§ 2023), the provisions of this section in respect to penalty are repealed. A justice of the peace has no jurisdiction of the offense of selling without a license or attempting to evade the statute prohibiting such sale. *State v. Anderson*, 47 Minn. 270, 50 N. W. Rep. 226.

An indictment charging that the defendant sold one gill of whisky shows that it was less than five gallons. *State v. Wyman*, 42 Minn. 182, 43 N. W. Rep. 1116.

(540)

1993

95 . 259

1993

69-M - 423
70-M - 12
70-M - 463
72-NW 700
72-NW 732
73-NW 403

1993

77-M - 542

1993 . 5 . 54

1993 . 05 . 346
1997

1993 . 05 . 59
2000

MINNESOTA STATUTES 1894

Ch. 16]

INTOXICATING LIQUORS.

§§ 1994-1999

§ 1994. County officers to make complaint.

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95 50

County attorneys, sheriffs and constables, having knowledge of any violation of the provisions of this chapter, shall make complaint thereof to a justice of the peace of the proper county. The county attorney shall also prosecute the bond given by such applicant for any violation of its conditions.

(G. S. 1866, c. 16, § 5; G. S. 1878, c. 16, § 5.)

See Village of St. James v. Hingtgen, cited in note to § 2026.

§ 1995. Violation of official duty—Penalty.

If any judge, sheriff, justice of the peace, constable or other officer willfully neglects or refuses to perform any duty required of him by this chapter, he shall be deemed guilty of a malfeasance in office, and shall thereafter be disqualified for holding the same for and during the remainder of the term for which he was elected, and shall be liable on his bond in any amount not exceeding five hundred dollars, nor less than one hundred dollars, recoverable in any court having jurisdiction.

(G. S. 1866, c. 16, § 6; G. S. 1878, c. 16, § 6.)

§ 1996. Commissioners liable upon judgment on bond, when.

When any action is brought and judgment rendered against the principal and sureties upon such bond, and property cannot be found, to satisfy said judgment, the board of county commissioners who approved said bond shall be held individually liable for said judgment, unless the sureties on said bond testified before some judge of the district court, or justice of the peace, that at the time of joining in said bond by them, they were worth double the amount mentioned therein, above all debts and liabilities incurred by them, and exclusive of property exempt from execution.

(G. S. 1866, c. 16, § 7; G. S. 1878, c. 16, § 7.)

§ 1997. List of persons licensed.

The clerk of the board of county commissioners of each county shall make and keep in his office an accurate list of all persons holding licenses under the provisions of this chapter, within his county, which list shall show the date of and the amount paid for each of said licenses respectively, and shall be open to the inspection of any resident of said county, without charge or expense.

(G. S. 1866, c. 16, § 8; G. S. 1878, c. 16, § 8.)

§ 1998. Jurisdiction of justices.

Justices of the peace shall have original jurisdiction in all actions arising under the provisions of this chapter, or on the bond aforesaid, when the amount sued for does not exceed one hundred dollars.

(G. S. 1866, c. 16, § 9; G. S. 1878, c. 16, § 9.)

§ 1999. Unlawful to furnish liquors, to whom—On Sunday—Written notice—Penalties.

1999
95 90
59-NW . 999

It shall be unlawful for any person to sell, give, barter, furnish, or dispose of, in any manner, either directly or indirectly, or by agent, employes, or otherwise, any spirituous, vinous, malt, or fermented liquors in any quantity or for any purpose whatever, to any minor person, or to any student or pupil in any public school, seminary, academy, or any other institution of learning in this state, or to any habitual drunkard, or intemperate drinker of intoxicating liquors, or to any intoxicated person; and any person violating any of the foregoing provisions of this section shall be guilty of a misdemeanor, and on conviction thereof by any court having jurisdiction shall be punished by fine of not less than twenty-five dollars, nor more than one hundred dollars, and costs of prosecution, or by imprisonment in the county jail not less than thirty, nor more than ninety, days, or until such fine and costs are paid, not exceeding ninety days; and any parent, husband, wife, child, guardian, master, or employer, or relation of any person, who is a habitual drunkard or an

1999
97 - 116
01 - 292

1919 '05 72

MINNESOTA STATUTES 1894

§ 1999

INTOXICATING LIQUORS.

[Ch. 16.]

intemperate drinker of intoxicating liquors, or any one who is annoyed or injured by the means of the continued intoxication of such drunkard or intemperate drinker, or any parent, master, guardian, relative, or employer of any minor person, may give notice in writing, signed by him or her, to any person, forbidding him from directly or indirectly furnishing any such habitual drunkard, intemperate drinker, or minor named in such notice with any kind of intoxicating liquors; and if within one year after such notice, in cases of habitual drunkards and minors, and any time before such minor person shall become of full age, any one to whom such notice was given sells, gives away, or furnishes, directly or indirectly, or causes to be furnished, any intoxicating liquors to the person named in such notice, he shall be deemed guilty of a misdemeanor, and upon conviction thereof by any court having jurisdiction shall be punished by fine not less than fifty dollars, nor more than one hundred dollars, and by imprisonment in the county jail for not less than thirty days, nor more than ninety days, and in case of default in the payment of such fine, the court may, in addition to the time of imprisonment fixed by its judgment, commit such person to the county jail until such fine is paid; the whole time, however, for which any person can be so committed to the county jail under the provisions of this section not to exceed ninety days, and the license of such person shall be revoked as hereinafter stated. All the provisions of this section shall also apply to the municipal corporations, anything in the charters or ordinances thereof to the contrary notwithstanding. Any person who shall purchase or procure for any intemperate drinker of intoxicating liquors, habitual drunkard, or minor, knowing them to be such, with money, or its equivalent, furnished by such person or by such drunkard, intemperate drinker, minor, or other person for him, any intoxicating liquors, shall be guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than twenty-five dollars, nor more than one hundred dollars, together with costs of prosecution, or by imprisonment in the county jail for not less than twenty, nor more than ninety, days, and in case of default in payment of any fine, until such fine and costs are paid, not exceeding ninety days. It shall be unlawful for any person in any city, village, town, or borough in this state to sell, barter, furnish, or dispose of in any manner, either directly or indirectly, or by agent, employe, or otherwise, any intoxicating liquor in any quantity or for any purpose whatever on the Sabbath day, or on any general or special election day, and all places where the sale of intoxicating liquors shall be licensed, under the provisions of any law or ordinance, shall be closed during all hours of every Sabbath day, and of every general or special election day; and any person violating any of the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof by any court having jurisdiction shall be punished by a fine of not less than thirty dollars, nor more than one hundred dollars, and costs of prosecution, and by imprisonment in the county jail not less than ten days, nor more than thirty days.

(G. S. 1866, c. 16, § 10, as amended 1877, c. 44, § 1; G. S. 1878, c. 16, § 10; 1887, c. 81, § 1.)

This section, as contained in G. S. 1878, describes two distinct and separate offenses, and prescribes a punishment for each. An indictment under the first and second sentences of the section need not allege any notice forbidding a sale, such as is mentioned in the subsequent provisions of the section. *State v. Hyde*, 27 Minn. 153, 6 N. W. Rep. 555.

In a prosecution for the sale of liquor to a minor it is not material whether the accused was a person licensed to sell, nor whether his occupation was one of those named in the latter part of the section. *State v. McGinnis*, 30 Minn. 48, 52, 14 N. W. Rep. 256, 258.

A complaint for selling liquor after notice must charge that the person furnishing the liquor was, at the time when the written notice forbidding him to so furnish was served upon him, a tavern keeper, merchant, distiller, or person having or keeping intoxicating liquors, etc., as the case may be. *State v. Heitsch*, 29 Minn. 134, 12 N. W. Rep. 353.

The validity of the act of 1887 was sustained in *State v. Peterson*, 38 Minn. 143, 36 N. W. Rep. 443. The provisions of chapters 5, 6, 81, Laws 1887, supersede all inconsistent charter provisions as to the terms and conditions upon which licenses may be granted, and do not necessarily require any additional local legislation to render them operative. *Id.* Upon conviction for violation of this section, a sentence to imprisonment in the county jail for thirty days, and to pay seventy-five dollars and costs, "and to stand committed in the county jail until such fine and costs are paid, not exceeding thirty days, in addition to the thirty days imprisonment," is valid. *Id.*

See *State v. Orth*, cited *supra*, § 1990.

The general legislation of 1887 on this subject, though applicable to cities, did not repeal by implication existing municipal ordinances, or the charter power to enact ordinances not inconsistent with the general law. Acts punishable under the general law may also be punishable by ordinance. *State v. Harris*, 50 Minn. 128, 53 N. W. Rep. 387, 531.

An ordinance requiring saloons to be closed on Sunday is not unreasonable. *Id.*

The costs of prosecution are no part of the fine. *State v. Larson*, 40 Minn. 63, 41 N. W. Rep. 363.

A complaint for not closing a saloon on Sunday held insufficient because not stating that the defendant owned or controlled the saloon or the opening or closing of it. *State v. Gluck*, 41 Minn. 553, 43 N. W. Rep. 483.

See *State v. Mueller*, 38 Minn. 497, 33 N. W. Rep. 691.

§ 2000. Prosecutions — Evidence — "Intoxicating liquor" defined.

2000

'05 . 192
89-M . 210

In the matter of prosecution for any violation of any of the provisions of this chapter it shall not be necessary to prove the name or kind of intoxicating liquors sold; and in all suits or prosecutions under any of the provisions of this chapter the finding of intoxicating liquors on the premises in question shall be *prima facie* evidence of their sale on such premises; and establishing the fact of one's having drunk what appeared to be intoxicating liquors on any premises shall be *prima facie* evidence that such liquor was intoxicating, and shall be taken as proof conclusive, unless defendant furnishes positive proof to the contrary; and the term "intoxicating liquor," wherever it occurs in this chapter, shall be understood to mean spirituous, vinous, malt, and fermented liquors. And in all prosecutions in this state for the sale of spirituous, vinous, fermented, or malt liquors without a license therefor, proof that the accused has paid the United States revenue tax for the sale of spirituous, or vinous, fermented, or malt liquors, or has procured a receipt for such payment covering the time in which it is alleged the accused has sold without a license, shall be *prima facie* evidence that the accused has sold such liquor; and in all such prosecutions proof that the receipt aforesaid is found or posted up on the premises in which it is alleged such sale is made shall be *prima facie* evidence that the person or persons doing business upon said premises, either as principals, agent, proprietor, clerk, or bar-tender, is selling such liquor; *provided*, that the provisions of this section shall not apply to druggists engaged in the business of compounding and dispensing medicines upon prescription. And in any suit or prosecution against the owner or keeper of any hotel, tavern, shop, saloon, brewery or distillery for the violation of any of the provisions of section ten of this chapter proof that intoxicating liquor has been sold, given, furnished or disposed of to any minor person in such hotel, tavern, shop, saloon, brewery or distillery shall be taken and considered as sufficient proof that the same was sold, given, furnished or disposed of to such minor person with the knowledge and by the authority of such defendant unless the want of such knowledge and authority shall be established by the positive testimony of at least two witnesses besides such defendant.

(G. S. 1866, c. 16, § 11, as amended 1877, c. 44, § 2; G. S. 1878, c. 16, § 11; 1887, c. 81, § 2; 1889, c. 105, § 1.)

See § 2032.

A complaint alleging a sale of "intoxicating liquors," without naming the kind, is sufficient, and the words "sale and disposal" charge but one offense. *State v. McGinnis*, 30 Minn. 52, (2d case,) 14 N. W. Rep. 258. See, also, *State v. Richter*, 23 Minn. 81.

In a prosecution for the sale of "spirituous liquors, to-wit, whisky," to an habitual drunkard, it is not necessary to prove that the liquor sold was whisky, or that the de-

endant knew that the person to whom the sale was made was an habitual drunkard. State v. Heck, 23 Minn. 549.

Proof of drinking "beer" is prima facie proof that it was intoxicating liquor. State v. Dick, 47 Minn. 375, 50 N. W. Rep. 362.

§ 2001. Selling after notice—Forfeiture of license.

That in all cases where any person is convicted, in any court, of selling or furnishing intoxicating liquor to a minor, habitual drunkard, or intemperate person after written notice as aforesaid, his license shall thereupon become forfeited and void, and thereafter he shall be liable for all penalties for selling liquor, the same as any person selling without a license.

(G. S. 1866, c. 16, § 12; G. S. 1878, c. 16, § 12; as amended 1887, c. 81, § 3.)

The revocation of a license upon conviction does not constitute "punishment," within the meaning of the constitution, so as to remove the case from the jurisdiction of a justice of the peace. State v. Harris, 50 Minn. 123, 52 N. W. Rep. 387, 531. See State v. Larson, cited in note to § 2027.

2002
70-M - 99
72-NW 843

§ 2002. Selling liquor to Indians—Penalty.

Whoever sells, exchanges, gives, barter or disposes of any spirituous liquors or wines, to any Indians within this state, shall, on conviction thereof, be punished by imprisonment in the state prison for a period not exceeding two years, and be fined not more than three hundred dollars; and in all cases arising under this section, Indians shall be competent witnesses.

(G. S. 1866, c. 16, § 13; G. S. 1878, c. 16, § 13.)

§ 2003. County officers to make complaint, etc.

Sheriffs, constables and justices of the peace are, under penalty of forfeiting their respective offices, required to make complaint of such violations of the provisions of the preceding section as may come to their knowledge, and the judges of the several district courts are required to give the preceding section in special charge to the grand juries of the several counties in their districts.

(G. S. 1866, c. 16, § 14; G. S. 1878, c. 16, § 14.)

§ 2004. Penalties, how enforced.

The penalties imposed by this chapter may be enforced by indictment and trial in any of the district courts of this state.

(1872, c. 61, § 4; G. S. 1878, c. 16, § 15.)

§ 2005. Druggists, etc., subject to this act.

All keepers of drug stores, dispensaries, apothecary shops, or other business houses in any manner dealing in spirituous, vinous or malt liquors, for whatever purpose, shall be subjected to all the conditions, liabilities and penalties prescribed for or imposed upon other persons by this act.

(1872, c. 61, § 5; G. S. 1878, c. 16, § 16.)

§ 2006. Sale of liquor at capitol forbidden.

That no person or persons shall be allowed to sell, barter or give away any spirituous, vinous, fermented or malt liquors, during the sessions of the legislature, within the capitol buildings, or upon the grounds of the same.

(1866, c. 40, § 1; G. S. 1878, c. 16, § 17.)

Cited, State v. Deusting, 83 Minn. 102, 103, 23 N. W. Rep. 442.

§ 2007. Same—Penalty for selling, etc.

Any person or persons who shall sell, barter, or in any way furnish any spirituous, vinous, fermented or malt liquors, with the intention of evading the provisions of this act, shall be deemed to have committed a misdemeanor, and, upon conviction thereof by any court having jurisdiction of the same, shall be fined for each and every such offence in a sum not exceeding fifty nor less than twenty-five dollars, and, in default of the same,

MINNESOTA STATUTES 1894

Ch. 16]

INTOXICATING LIQUORS.

§§ 2007-2013

shall be imprisoned in Ramsey county jail not less than thirty nor more than sixty days; all fines collected under the provisions of this act shall be expended by the proper officer in the purchase of books for the state library. (1866, c. 40, § 2; G. S. 1878, c. 16, § 18.)

§ 2008. Sale of liquor near state fair grounds.

It shall hereafter be unlawful to sell, barter or otherwise dispose of any spirituous, malt or fermented liquors during the time the state fair is being held upon or within one-half mile of the grounds conveyed to the state of Minnesota by the county of Ramsey, being the same ground described in section one of chapter one hundred and seventy-four of the general laws of this state for the year one thousand eight hundred and eighty-five and known as the state fair grounds.

(1889, c. 21, § 1.)

2008

95 . 103

§ 2009. Same—Penalty for violation.

Any person who violates, or aids or abets another in violating the provisions of the foregoing section, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars, for the first offense; and not less than five hundred dollars nor more than one thousand dollars for the second or any subsequent offense, or by imprisonment in the county jail for not less than thirty days, nor more than six months, or by both fine and imprisonment in the discretion of the court.

(Id. § 2.)

2009

95 . 103

§ 2010. Sale of liquor near Hamline University.

It shall be unlawful for any person to sell or dispose of any spirituous, wines or malt liquors, within a distance of half a mile from the buildings of the University now located upon the southwest quarter of the southwest quarter of section twenty-seven, town twenty-nine, range twenty-three, in the county of Ramsey, and state of Minnesota.

(Sp. Laws 1876, c. 225, § 15; G. S. 1878, c. 124, § 45.)

See § 3923 for sale of liquor near University of Minnesota.

§ 2011. Same—Penalty for violation.

Any person violating any of the provisions of this act shall, upon conviction thereof, be fined not less than twenty dollars, nor more than fifty dollars, for every such offence, or shall be imprisoned in the county jail of the county of Ramsey for a period of not less than one month, nor more than six months.

(Sp. Laws 1876, c. 225, § 16; G. S. 1878, c. 124, § 46.)

§ 2012. Hours of closing—Minor.

All persons heretofore, or that may hereafter be licensed to sell intoxicating liquors in this state, whether such license has been granted by the board of county commissioners of any county or by the officers of any city, village or town in this state, as the case may be, are hereby required to close their places of business (hotels excepted) at eleven o'clock at night, and keep the same closed until five o'clock in the morning; and it is hereby made unlawful between the hours last named, for persons so licensed as aforesaid, to sell, give away or otherwise dispose of any fermented or intoxicating liquors at their said place of business, or to permit the throwing of dice or playing cards, billiards or pools therein, by any minor at any time.

(1878, c. 75, § 1; G. S. 1878, c. 16, § 19; as amended 1889, c. 87, § 1.)

2012

58-M - 195
69-NW 474

2012

67-M - 10
69-M - 500
72-NW 837
77-NW 293
77-NW 294

2012

01 - 313
74-M - 381
74-M - 385

§ 2013. Same—Penalty.

That any person who shall violate any of the provisions of the foregoing section shall pay a fine of not less than ten dollars and not more than fifty dollars, besides the costs of the prosecution, for each and every such violation.

(1878, c. 75, § 2; G. S. 1878, c. 16, § 20.)

2013

69-M - 500
72-NW 837

¹An act prohibiting the sale of spirituous liquors in the vicinity of the state fair grounds. Approved April 14, 1889.

MINNESOTA STATUTES 1894

§§ 2014-2019

INTOXICATING LIQUORS.

[Ch. 16

2014
69-M - 500
72-NW 837

§ 2014. Justices of peace have jurisdiction.

That all justices of the peace of this state shall have jurisdiction to enforce the provisions of this act; and such justices shall, in addition to the foregoing penalty, revoke the license of any person so offending.

(1878, c. 75, § 3; G. S. 1878, c. 16, § 21.)

§ 2015. Prosecutions.

It is hereby made the duty of the county attorney of the several counties of this state to prosecute all violations of this act, upon complaint being made before any justice of the peace.

(1878, c. 75, § 4; G. S. 1878, c. 16, § 22.)

§ 2016. Certain games prohibited in saloons—Penalty.

It shall not be lawful for any person to keep any bagatelle or card or any other kind of table whatsoever, except billiard and pool tables, or to allow the same to be kept in any room where any of the liquors mentioned in this act are licensed to be sold or kept for sale, or to allow any games at cards, throwing of dice, or any other game of any kind or nature whatsoever to be played in such room. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars, nor more than fifty dollars. The provisions of this section shall also apply and be in force in all municipal corporations.

(1887, c. 81, § 4; G. S. 1878, v. 2, c. 16, § 24.)

§ 2017. Licenses—Payment—Posting.

That no person shall in any manner be protected by any permit or license issued by the county commissioners, or by the authorities of any city, village, or other municipal corporation, unless he shall have paid the full amount required by the law or ordinance under which such license is granted; and no license shall have any force or effect unless the licensee shall have paid therefor a sum equal to the minimum rate fixed by the laws of this state for the town, village, borough, or city where the same is granted. All licenses granted by said county commissioners, or the authorities of any town, village, borough, or city in this state, shall be posted up in the room where such business is done, and shall distinctly state the amount paid therefor.

(1887, c. 81, § 4; G. S. 1878, v. 2, c. 16, § 25.)

§ 2018. Licenses—Description of premises—Sale elsewhere—Penalty.

All licenses issued by the county commissioners, or by the authorities of any city, town, borough, village, or other municipal corporation, for the sale of intoxicating liquors, shall contain a description of the premises and room where such liquors are licensed to be sold, and any person so licensed, who shall sell, barter, or give away any intoxicating liquors outside of or in any place other than the room so named, shall be guilty of a misdemeanor, and shall be liable to all the penalties provided in this act, or under any law of this state, for selling liquors without a license.

(1887, c. 81, § 4; G. S. 1878, v. 2, c. 16, § 26.)

§ 2019. Violation of license laws—Certificate of conviction.

When any person holding a license for the sale of intoxicating liquors is convicted of the violation of any law relating to the business he is licensed to pursue, and when any person shall be convicted of selling liquor without a license, under any law of this state or ordinance of any city, village, borough, or municipal corporation, the court in which or the magistrate before whom such conviction is had shall send to the board, council, trustees, or authorities which issued the license, or who would be authorized to issue a license in the district where such conviction is had, a certificate showing the offense charged, the conviction under such charges, and the time and place of such conviction, and such certificate, if made by a magistrate, shall be un-

2018
84-NW 913

2018 88-M 29

der his hand, and if made by a court having a clerk, it shall be made by such clerk.

(1887, c. 81, § 4; G. S. 1878, v. 2, c. 16, § 27.)

§ 2020. License—Revocation.

The county commissioners of any county, or the common council of any city, village, or borough, and the authorities of any municipal corporation who are authorized to issue any license for the sale of intoxicating liquors, after notice to the person holding any such license and reasonable opportunity for him to be heard by them or by a committee of their number, may revoke any such license, and declare the same forfeited upon proof satisfactory to them that he has violated any of the laws of this state regulating the sale of intoxicating liquors, or has violated any provisions of law regulating persons so licensed to sell, or places where such liquors are sold, or any of the conditions of the bond required to be given by such licensee, and any such license shall cease to be in force from and after such revocation. The pendency of proceedings before a court of justice shall not suspend or interfere with the power herein given to revoke a license or declare a forfeiture. In all those cases where any such license is revoked or declared forfeited by reason of any violation of the law in relation to the sale of intoxicating liquor to a minor, habitual drunkard, or intemperate drinker of intoxicating liquors, or after notice forbidding such sale, the licensee shall be disqualified to receive a license for the period of five years thereafter, and in all other cases for the period of one year after the expiration of the term of the license so forfeited, and if the licensee is the owner of the premises described in or covered by such license, no license shall be issued to be exercised on said premises for the residue of the term thereof.

(1887, c. 81, § 4; G. S. 1878, v. 2, c. 16, § 28.)

In proceedings for revoking the relator's license, held that the city council did not err in refusing to postpone the examination in the absence of his attorney, and that he was not deprived of reasonable opportunity to be heard. *State v. City of Northfield*, 41 Minn. 211, 42 N. W. Rep. 1058.

§ 2021. Applications for license—Notice—Hearing—Deposit fee.

All applications for a license to sell intoxicating liquors to the commissioners of any county or to the authorities of any municipal corporation in this state, authorized to grant the same, shall be in writing, and shall designate the place where such business is to be carried on. Upon receiving any such application, the county auditor, or the clerk of any such municipal corporation, shall cause a notice of such application, containing the name of the applicant, or description of the premises, as stated in the application, and the time when the same will be heard, to be published in the official newspaper of said county or municipal corporation at least two weeks immediately preceding the time of such hearing; or in case there be no such official paper, then such notice shall be published in some newspaper of general circulation, printed and published in the county within which such license is granted. Any person may appear at the time stated, and object to the granting of such license, and if it should appear to the board or municipal authorities empowered to grant such license, that the applicant has knowingly violated any of the laws of this state regulating the liquor traffic, or of the municipality where such application is made, within the year preceding such application, or any law relating to the sale of intoxicating liquors to minors, habitual drunkards, or intemperate drinkers, after receiving a notice forbidding such sale, within five years preceding such application, such board or municipal authorities shall refuse to grant the license. Provided that no license shall be granted to any person or persons who are not bona fide residents of the state of Minnesota. Provided, that in all cases where application is made as herein provided, there shall be deposited with the county auditor, if ap-

plication is made to a board of county commissioners, and with the treasurer of the municipality, if such application is made to the authorities of a municipal corporation, the sum of ten dollars, to defray the expenses of publishing the notice of application, as herein provided, which amount shall be deducted from the amount of license fee provided by law in case license is granted to and the same is accepted and taken out by such applicant; in case, however, such board of commissioners or municipal authorities shall determine to grant such license and the applicant fails to take out such license, such part of said deposit as is necessary to defray the expenses aforesaid shall be and remain the property of said county or municipality, and the balance, if any, repaid to such applicant; provided, however, if said board of county commissioners or municipal authorities reject such application and refuse to grant a license to such applicant, the whole amount of such deposit of ten dollars shall be returned to such applicant, less the cost of publication of such notice of application.

(1887, c. 81, § 4; G. S. 1878, v. 2, c. 16, § 29; as amended 1893, c. 179, § 1; Id. c. 167, § 1.)

See State v. Orth, cited supra, § 1990; State v. Peterson, supra, § 1999.

2022
76-M - 5

§ 2022. License fee—In cities of 10,000 inhabitants.

No license for the sale of intoxicating liquors shall be granted to any person applying for the same under the provisions of the charter of any city of this state, which city contains a population of ten thousand people or more, by the municipal authorities of said city, except upon the condition that said applicant shall, before the issuance of said license, pay into the treasury of said city, in the manner provided by its charter, a license fee of one thousand dollars, or such fee in excess of said sum as the city council of said city shall, in the manner provided in its charter, fix and prescribe; anything in the charter of any city to the contrary, notwithstanding.

(1887, c. 5, § 1; 2 G. S. 1878, v. 2, c. 16, § 30.)

Laws 1891, c. 114, repeals Laws 1881, c. 30, and adds: "Provided, that nothing herein contained shall be construed to repeal or in any manner affect any of the provisions of chapter five of the general laws of one thousand eight hundred and eighty-seven, entitled 'An act regulating the amount of licenses for the sale of intoxicating liquors.' "

See State v. Orth and other cases cited in note to § 1993, and State v. Peterson and State v. Harris, cited in note to § 1999.

2023
76-M - 5

§ 2023. Same—In smaller cities.

No license for the sale of intoxicating liquors shall be granted to any person applying for the same under the provisions of the charter of any city of this state, which city contains a population of less than ten thousand people, by the municipal authorities of said city, except upon the condition that said applicant shall, before the issuance of said license, pay into the treasury of said city, in the manner provided by its charter, a license fee of five hundred dollars, or such fee in excess of said sum as the city council of said city shall, in the manner provided by its charter, fix and prescribe; anything in the charter of any city to the contrary, notwithstanding.

(1887, c. 5, § 2; G. S. 1878, v. 2, c. 16, § 31.)

2024
97 - 154

§ 2024. Same—In other municipalities—Return of part.

No license for the sale of intoxicating liquors shall be granted by the county commissioners of any county, or the municipal authorities of any town, village, or borough, to any person applying for the same under the provisions of chapter sixteen, General Statutes of eighteen hundred and seventy-eight, or of any general or special law governing such village or borough, except upon the condition of paying, in the manner prescribed by said chapter sixteen, or in the case of any village or borough organized or existing under a general or

²An act regulating the amount of license for the sale of intoxicating liquor. Approved February 10, 1887.

§ 5 repeals all inconsistent acts and parts of acts.

MINNESOTA STATUTES 1894

Ch. 16]

INTOXICATING LIQUORS.

§§ 2024-2026

special law regulating the subject of licenses for the sale of intoxicating liquors, then in the manner provided in and by such general or special law, a license fee of five hundred dollars, or such fee in excess of said sum as the county commissioners, or in case of such village or borough, the municipal authorities of such village or borough, shall fix and prescribe. Provided, that no license shall be granted for a longer period than one year, and that in all cases where such city, village or borough shall, at their annual election, vote to do away with the sale of intoxicating liquors under the local option laws referred to in section four of this act, then the municipal authorities of any city, village or borough shall refund to the holder of said license an amount pro rata equal to the unexpired portion of said license. Provided, that the provisions of this law shall not apply to any city or village where the people have voted to do away with the sale of intoxicating liquors and where license has been granted by the council of such city or village in opposition to the vote of the people.

(1887, c. 5, § 3; G. S. 1878, v. 2, c. 16, § 32; as amended 1893, c. 189, § 1.)

§ 2025. Same—Local option.

Nothing herein contained shall be construed as affecting or repealing the local option proviso of section one of chapter sixteen of the General Statutes of eighteen hundred and seventy-eight, or the local option provisions of section forty-eight of chapter one hundred and forty-five of General Laws of eighteen hundred and eighty-five.

(1887, c. 5, § 4; G. S. 1878, v. 2, c. 16, § 33.)

§ 2026. Applicants for license—Bond.

Any person applying to the county commissioners of any county, or to the municipal authorities of any city, village, town, or borough in this state, for a license to sell intoxicating liquors, shall, before the same is issued, file with the clerk of said board of commissioners, or with the clerk or recorder of such city, village, town, or borough, a bond, with two or more sureties, who shall be freeholders of the county, and who shall justify in twice the amount of said bond, to be approved by the said board of county commissioners or by the common council or other governing body of any town, village, or borough, or the common council of any city to which such application is made, in the penal sum of two thousand dollars, conditioned that the said person so licensed will not sell or otherwise dispose of any intoxicating liquors at any place other than the room named in such license, nor on the Sabbath, nor on any general or special election day, and that he will keep a quiet and orderly house, and not permit gambling with cards or with any other means or device for money or its representative, or other thing of value, in the house or place of business of such person, and will not sell, barter, give away, or otherwise furnish or dispose of such liquors to any minor person, or to any pupil or student in any public school, academy, seminary, or other institution of learning, nor to any intemperate person, nor habitual drunkard. No persons shall be accepted as sureties on any such bond who are already on any other bond given pursuant to the provisions of this section.

(1887, c. 6, § 1; G. S. 1878, v. 2, c. 16, § 34.)

The bond should run to the state, and the penalties go to the county treasury. The bond may be prosecuted in the name of the state by the county attorney. If executed to a village, the county attorney cannot sue in its name, without its authority. Village of St. James v. Hingtgen, 47 Minn. 521, 50 N. W. Rep. 700.

See State v. Orth and other cases cited in note to § 1993, and State v. Peterson and State v. Harris, cited in note to § 1999.

*An act to further regulate the sale of or disposition of intoxicating liquors. Approved March 3, 1887.

§ 8 repeals all inconsistent acts and parts of acts.

2025
70-M - 463

2026-2032
80-NW 701

2026
72-M - 17
76-M - 1
78-NW 877
84-NW 913

2026 '05 246

§ 2027. License to be denied, when—Violation—Penalty.

No license shall be issued or renewed by the authorities of any county, city, town, village, or borough in this state when the sum paid therefor is less than the minimum amount required by the laws of this state; nor to any person who, during the twelve months next preceding the application for such issuance or renewal, shall have been convicted of violating any law of this state, or any ordinance of any municipal corporation therein, regulating the sale of intoxicating liquors; and any member of any board of county commissioners, or of the council of any city, or of any municipal corporation in this state, who shall vote to issue or renew such license, and any officer who shall issue or renew, or shall take any part in issuing or renewing, such license, upon the payment by the applicant of a sum less than the full minimum amount required by law, shall be deemed guilty of a misdemeanor, and shall be punished by fine not exceeding five hundred dollars, nor less than one hundred dollars, and such license so issued or renewed in violation of law shall be void. (1887, c. 6, § 2; G. S. 1878, v. 2, c. 16, § 35.)

Justices of the peace are not deprived of the power to try cases by the fact that a person convicted is disabled from obtaining a license for 12 months thereafter. State v. Larson, 40 Minn. 63, 41 N. W. Rep. 363.

See State v. Harris, cited in note to § 2001.

§ 2028. Official misconduct—Penalty.

If any county commissioner or member of the council or other governing body of any city, village, or other municipal corporation in this state, any mayor of any city, any judge, sheriff, justice of the peace, constable, or other officer, willfully neglects or refuses to perform any duty required of him by the laws regulating the liquor traffic or the issue of licenses therefor, he shall be deemed guilty of a malfeasance in office, and shall thereafter be disqualified from holding the same for and during the remainder of the term for which he was elected or appointed, and shall be liable on his bond in an amount not more than five hundred dollars, nor less than one hundred dollars, recoverable in any court having jurisdiction.

(1887, c. 6, § 3; G. S. 1878, v. 2, c. 16, § 36.)

2029 § 2029. Sale without license—Penalty—Prosecutions.

Whoever sells, barter, gives away, or otherwise disposes of any spirituous, vinous, fermented, or malt liquors, without first having obtained license therefor agreeably to the laws of this state, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court having jurisdiction of the same, be punished by a fine of not less than fifty dollars, nor more than one hundred dollars, together with the costs of prosecution, and by imprisonment in the county jail not less than thirty days, nor more than ninety days. All prosecutions for the violation of any of the provisions of this section may be tried and conducted in a summary manner before any municipal court, police justice, or justice of the peace having jurisdiction thereof, in the same manner as violations of any municipal ordinance or by-law may now be tried and conducted: *provided*, that the provisions of this section shall not be so construed as to prohibit any regularly licensed druggist from dispensing liquors in filling prescriptions, made by any regular, reputable, and duly-licensed physician in the practice of his profession.

(1887, c. 6, § 4; G. S. 1878, v. 2, c. 16, § 37.)

See State v. Orth and other cases cited in note to § 1993.

See, also, State v. Quinlan, 40 Minn. 55, 41 N. W. Rep. 299.

2030 § 2030. Application of act.

The provisions of this act shall apply to all cities and villages in this state incorporated under general or special law, and to every other municipal corporation or quasi corporation in this state, whether or not said municipal corporations have the right by general or special charter or general or special

MINNESOTA STATUTES 1894

Ch. 16]

INTOXICATING LIQUORS.

§§ 2030-2034

laws to grant licenses for the sale of intoxicating liquors, or to regulate said sale through or by any council or officer of the same, anything in the charter of any municipal corporation in this state to the contrary notwithstanding. (1887, c. 6, § 5; G. S. 1878, v. 2, c. 16, § 38.)

See State v. Peterson and State v. Harris, cited in note to § 1999.

§ 2031. Licenses—When to expire.

All licenses granted after the passage of this act and before July first, one thousand eight hundred and eighty-seven, shall expire on said last-named date: *provided*, that in any town, village, or city where, under the existing laws, the licenses are granted in March, April, May, or June, such licenses may be issued to terminate on July first, one thousand eight hundred and eighty-seven, on the payment of a *pro rata* of the amount of the license required by the existing laws, for the entire year; *and provided, further*, that where, in any town, village, or city, any license for the sale of intoxicating liquors has been granted since the first day of July, one thousand eight hundred and eighty-six, and before the passage of this act, any and all such licenses shall expire within one year from the date of issuing the same.

(1887, c. 6, § 6; G. S. 1878, v. 2, c. 16, § 39.)

Laws 1881, c. 30, fixing expiration of licenses on second Tuesday in January of each year, was repealed by Laws 1891, c. 114, with a proviso that such repeal should not affect any of the provisions of Laws 1887, c. 5.

§ 2032. "Intoxicating liquors" defined.

The words "intoxicating liquors," wherever used in the laws or statutes of this state, now in force or hereafter to be in force, shall be construed to mean spirituous, vinous, fermented, and malt liquors, or either of them.

(1887, c. 6, § 7; G. S. 1878, v. 2, c. 16, § 40.)

See § 2000.

§ 8 repeals all inconsistent acts.

§ 2033. Evading liquor laws—Penalty.

Whoever shall attempt to evade or violate any of the laws of this state regulating or prohibiting the sale of intoxicating liquors, by selling, giving away, or otherwise disposing of any spirituous, vinous, malt, or other intoxicating liquors, contrary to law, by means of the artifice or contrivance known as the "Blind Pig," or "Hole in the Wall," or by any other practice, artifice, contrivance, or device intended to conceal such evasion or violation of said laws, or the identity of the person or persons engaged in the same, shall, in addition to the offense [of selling] or otherwise disposing of such liquors without license, be guilty of a misdemeanor, and upon conviction thereof shall, for each offense, be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment in the county jail not less than ten days, nor more than three months, or by both fine and imprisonment, in the discretion of the court.

(1887, c. 7, § 1; G. S. 1878, v. 2, c. 16, § 41.)

See State v. Orth and State v. Anderson and other cases cited in note to § 1993.

§ 2034. Same—Owner, etc., of premises—Liability.

The owner, lessee, tenant, or person or persons, in possession or control of any premises in which any such means or deceptive practices are resorted to, to evade or violate said laws, who shall knowingly consent to or permit any other person or persons to so attempt to evade or violate said laws relating to the sale of intoxicating liquors upon the same, shall also be severally guilty of a like misdemeanor, and be punished therefor in the same manner as provided in section one of this act. To convict any such owner, lessee, or per-

⁴An act to define and punish the crime of unlawfully disposing of intoxicating liquors by the device known as "Blind Pig" or other contrivances intended to conceal the transaction. Approved March 5, 1887.

MINNESOTA STATUTES 1894

§§ 2034-2038

INTOXICATING LIQUORS.

[Ch. 16

son in possession or control of any such premises, it shall only be necessary to prove that any such intoxicating liquors were so unlawfully sold or disposed of upon said premises, or were there by such means unlawfully procured, with his knowledge and consent or acquiescence.

(1887, c. 7, § 2; G. S. 1878, v. 2, c. 16, § 42.)

§ 2035. Same—Duty of officers.

It shall be the duty of every sheriff, deputy-sheriff, constable, policeman, or other peace-officer, to immediately arrest any person or persons found committing any of the offenses named in this act, and to make complaint against them, to the end that they may be dealt with according to law, and to enforce this act. Any such officer who shall fail to do his duty, as in this section required, shall be guilty of malfeasance in office, for which he may be removed therefrom.

(1887, c. 7, § 3; G. S. 1878, v. 2, c. 16, § 43.)

§ 2036. Pharmacists—May dispense liquors.

It shall be lawful for any pharmacist or druggist in the state of Minnesota, who shall be duly registered as such under the laws of said state, and who shall be actually carrying on the business of a pharmacist or druggist, to dispense any spirituous, vinous, fermented, or malt liquors in good faith for medicinal purposes, upon the written prescription of a reputable and duly-licensed physician actually engaged in the practice of his profession, without having a license for the sale of intoxicating liquors; but no such liquors so dispensed or disposed of shall be drunk or used on the premises where obtained.

(1887, c. 8, § 1; G. S. 1878, v. 2, c. 16, § 44.)

See State v. Orth and other cases cited in note to § 1993.

§ 2037. Same—Violation of liquor laws—Penalty.

Any pharmacist or druggist who shall sell or dispose of any spirituous, vinous, fermented, or malt liquors, for any purpose or in any manner other than as provided in this act, or acts amendatory hereof, without having a license for the sale of intoxicating liquors, shall, upon conviction thereof, in any court having jurisdiction thereof, be subject to the same fines and penalties imposed by any law or ordinance upon any other person for selling intoxicating liquors without a license; and any pharmacist or druggist who shall permit any intoxicating liquors so sold or disposed of to be drunk or used on the premises where obtained shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than twenty dollars and not exceeding one hundred dollars.

(1887, c. 8, § 2; G. S. 1878, v. 2, c. 16, § 45.)

§ 2038. Physicians—Evasion of liquor laws—Penalty.

Any physician or person who shall make or give any such prescription for any other than medicinal purposes, or who shall make or give any such prescription for the purpose of evading the laws of this state, or of aiding another to evade the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the same fine and penalties that are imposed by any law or ordinance upon any other person for selling intoxicating liquors without a license.

(1887, c. 8, § 3; G. S. 1878, v. 2, c. 16, § 46.)

⁵ An act to authorize pharmacists to dispense and sell spirituous, vinous, fermented, and malt liquors on physicians' prescriptions and for medicinal purposes only. Approved March 7, 1887.