

130278

1941 Supplement

To

**Mason's Minnesota Statutes**

**1927**

**1939 to 1941**

**(Supplementing Mason's 1940 Supplement)**

Containing the text of the acts of the 1941 Session of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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the fund shall not be considered to constitute indebtedness, bonded or otherwise.

(c) No moneys shall be transferred to the fund until after all bonds have been posted and insurance acquired.

(d) The county welfare board, its executive secretary or other designee may act as stamp issuing officer and shall have power to do all other acts necessary to the proper administration of the fund.

(e) Expenses incident to the creation and administration of the fund, including bond and insurance premiums may be defrayed in the same manner as other expenses of the county welfare board under Sections 974-11 to 974-22 of Mason's Supplement 1940, or as such sections may be amended or supplemented.

(f) Accounting shall be as follows:

(1) With respect to the fund, by such method or methods as the public examiner by regulations, duly approved as to legality by the attorney general, may direct. Semi-annually or at such other times as the board of county commissioners may designate the county welfare board shall give an accounting and report to the county auditor.

(2) With respect to any transfer or deposit made in advance by a governmental subdivision of the State of Minnesota to any county welfare board or its stamp issuing officer, by accounts and reports to the transferring or depositing subdivision made monthly or at such times and in such manner as the public examiner, by regulations duly approved as to legality by the attorney general, may direct. The duly approved regulations of the public examiner under this subsection (f) shall be sent to all county welfare boards within the state.

(g) At the termination of any plan all commodity stamps shall be disposed of and the fund in cash shall be returned to the contributors thereto. (Act Mar. 28, 1941, c. 98, §4.)

**3199-112. Borrowing money.**—The government subdivisions named in Section 2 of this act may, for the purposes of that section, borrow money in the manner provided by law for direct relief or social welfare purposes or both. (Act Mar. 28, 1941, c. 98, §5.)

**3199-113. Same — Contributions.**—Any governmental subdivision of the State of Minnesota au-

thorized to expend public moneys for the direct relief of its poor is hereby empowered to contribute to the fund and, for such purpose may borrow money in the manner provided by law for direct relief or social welfare purposes or both. (Act Mar. 28, 1941, c. 98, §6.)

**3199-114. Custodians—Surety bonds — Insurance against loss.**—Any person or persons into whose care and custody there comes any cash, stamps or other property used in any federal commodity or commodity stamp plan or program shall post a bond running to the State of Minnesota approved by and in such sum as the board of county commissioners or other governing body of the responsible governmental subdivision or authorized representative agency shall deem adequate protection for all stamps, cash and property in such person's or persons' care and custody. All stamps, cash and property in the possession of any governmental subdivision of the state or any agency thereof shall be insured against loss or deposited with a depository of public funds in the manner provided by law. (Act Mar. 28, 1941, c. 98, §7.)

**3199-115. Construction of act.**—This act shall be construed so as to further its purpose which is to enable governmental subdivisions of the State of Minnesota to participate in federal commodity and commodity stamp plans and programs. (Act Mar. 28, 1941, c. 98, §8.)

**3199-116. Federal Commodity Stamp Plans—Validating act.**—In all cases in which any county within the State of Minnesota or any agency thereof has created or caused to be created a revolving fund for the acquisition and disposition of federal commodity stamps pursuant to arrangements with the United States Department of Agriculture or any agency thereof and in all cases in which any county, town, city, village or other subdivision of the State of Minnesota or any agency of any one of them has obtained or caused to be obtained commodity stamps for distribution, in lieu of other relief, to the poor, such expenditures, distributions, acquisitions and dispositions and all acts incident and necessary to participation in any such commodity stamp plan are hereby legalized and declared to be valid. (Act Mar. 28, 1941, c. 99, §1.)

## CHAPTER 16

### Intoxicating Liquors

#### BEER BILL

**3200-5. Municipalities may issue licenses for sale of non-intoxicating beverages.**

Permit to drug store in dry territory to sell liquor on prescription is authorized, and does not prevent issuance of 3.2 beer license. Op. Atty. Gen., (218J-3), Sept. 28, 1939.

There is no state law which prohibits a gift of intoxicating liquor or nonintoxicating malt beverages, but it may be argued that a gift of liquor or beer with a meal by a hotel or restaurant would be a mere subterfuge. Op. Atty. Gen., (217), Nov. 4, 1939.

There is no state statute prohibiting granting of license near a public school. Op. Atty. Gen., (217f-1), Dec. 14, 1939.

Town board may limit number of 3.2 beer licenses, but has no right to refuse to approve all applications for licenses without cause. Op. Atty. Gen., (217B-8), Jan. 10, 1940.

Electors of a township do not have right to vote on question of issuing license. Op. Atty. Gen., (218g-9), April 18, 1940.

In absence of any provision requiring mayor to approve or affix his signature to a 3.2 non-intoxicating malt liquor license, it is duty of city clerk to issue license when granted by city council. Op. Atty. Gen. (217-B-4), July 18, 1940.

Town board's authority is limited to approval or disapproval of application, and town board has no right to regulate conduct of licensee's business after a license has been issued by county board, nor can it require

county board to regulate establishment. Op. Atty. Gen. (217B-8), Nov. 22, 1940.

An ordinance regulating sale of nonintoxicating malt liquors may prohibit sales of carbonated beverage or soft drink, excepting therefrom ice cream sodas and malted milk, during hours of sale of malt liquors, and make it a misdemeanor to permit bottles or containers of malt liquors to remain on bars or tables or shelves or fixtures during closing hours, and may make it a misdemeanor for a person to drink malt liquors in a licensed place during closing hours. Op. Atty. Gen. (217C), Nov. 26, 1940.

Authority of city to "regulate" authorizes city to require a \$1000 bond. Op. Atty. Gen. (217C), Jan. 9, 1941.

**3200-6. Unlawful to sell unless licensed.**

Village council may not charge a fee in excess of \$5.00 for an "off-sale" license. Op. Atty. Gen., (217c), Dec. 18, 1939.

Whether county agricultural society, or county fair association, is eligible for an "off sale" malt liquor license is a question of fact to be decided by village council. Op. Atty. Gen., (218J-1), March 29, 1940.

There is no statute authorizing a search warrant for places selling 3.2 beer without a license. Op. Atty. Gen. (218f-3), May 28, 1940.

Sale of 3.2 beer without a license may be restrained by injunction as a nuisance. Id.

On sale licenses for non-intoxicating liquor may be issued to persons who already have on sale hard liquor establishment, but they must be drug stores, restaurants, hotels, or bona fide clubs. Op. Atty. Gen. (217B-5), June 8, 1940.

License fee may not be refunded on transfer of business or surrender of license. Op. Atty. Gen. (217b-6), July 6, 1940.

Non-intoxicating malt liquor licenses are not transferable. Id.

When son of hotel owner leases and operates dining room in connection with hotel but with a separate outside entrance and operates it independently of hotel, son may sell bottled beer to guests of hotel under an off sale license restricted to dining room or restaurant. Op. Atty. Gen. (217f-2), July 17, 1940.

Clause "for consumption off the premises", refers to particular place that applicant had leased on fair grounds as a concession and not the entire fair grounds. Op. Atty. Gen. (217-B-4), July 18, 1940.

While a beer license cannot be transferred from one holder to another, it may be transferred from one location to another, with approval of governing bodies which approved original application. Op. Atty. Gen. (217B-6), Sept. 16, 1940.

Every license should state a definite description of the place of business. Id.

Licensee to sell beer at a certain place does not authorize licensee to sell it at another place, and where licensee is unable to renew his lease on licensed premises and another person applies for a license to sell at that place, council should not issue a license to the new applicant until there has been a transfer or an amendment of earlier license, surrender and vacation of licensed premises by licensee not of itself automatically revoking license. Op. Atty. Gen. (217B-6), Sept. 19, 1940.

An unincorporated group, such as a local branch of the Veterans of Foreign Wars which maintains no quarters, might qualify for a license as a club, but cannot sell intoxicating liquors. Op. Atty. Gen. (218G-15), Oct. 9, 1940.

A restaurant is a place where ample portions of well prepared food are served at reasonable prices, and a lunch business conducted in a grocery store in good faith might constitute a "restaurant." Op. Atty. Gen. (217B-5), Feb. 14, 1941.

An exclusive liquor store as defined by city ordinance could not sell non-intoxicating malt beverages without obtaining a non-intoxicating malt liquor license. Op. Atty. Gen. (218g-13), Mar. 3, 1941.

(b). Grocer doing business in one village and having an off-sale 3.2 beer license may not deliver beer with an order in a nearby village. Op. Atty. Gen. (218J-5), Oct. 25, 1939.

(c). A private organization cannot assume handling and sale for profit of non-intoxicating malt beverages on railroad trains chartered by such organization although latter has no license covering such sale. Op. Atty. Gen. (218g-2), March 7, 1940.

### 3200-7. Unlawful to sell to persons under 21 years of age.

Section 4111-1 is the only statute bearing on question of prohibiting employment of a minor under 18 years of age in 3.2 beer establishments, and fact that minor is child of owner is immaterial. Op. Atty. Gen. (218J-12), April 3, 1940.

**3200-8. Duration of licenses.**—All licenses for the sale of non-intoxicating malt liquors shall be issued for a period of one year, except that for the purpose of coordinating the time of expiration of licenses in general, such licenses may be issued for a shorter time to expire at a given period of the year in which case a pro rata fee shall be charged; provided, however, that in all counties of this state having a population of over 14,000 and less than 15,000 inhabitants, according to 1940 census and containing not less than 20 and not more than 25 full and fractional congressional townships, all licenses for the sale of non-intoxicating malt liquors may be issued for a period of less than one year. (As amended Act Apr. 28, 1941, c. 502, §1.)

Act Apr. 28, 1941, c. 502, §2, provides that nothing herein contained or omissions shall be construed as repealing any prior amendments to the foregoing sections by the 1941 session of the legislature.

Any license issued to a club must be for a full period of one year, as there is no provision for issuing a license for a shorter period. Op. Atty. Gen. (218J-1), March 29, 1940.

### 3200-10. Repeal; non-intoxicating malt liquors excluded.

This section, or rather new definition of intoxicating liquors, modifies statute prohibiting possession of malt liquors in school buildings or upon school grounds. Op. Atty. Gen. (622a-13), Mar. 4, 1941.

### 3200-10b. Municipalities may not extend closing hours.

Village ordinance requiring all places licensed to sell nonintoxicating malt liquors to close their stores between

1 a.m. and 6 a.m. is valid. Op. Atty. Gen. (218j-8), Mar. 28, 1941.

### 3200-10c Violations.

Licenses are revocable only by violation of law, and surrender and vacation of licensed premises by licensee does not in and of itself automatically revoke a license. Op. Atty. Gen. (217B-6), Sept. 19, 1940.

## LIQUOR CONTROL ACT

### 3200-21. Construction of terms.

#### 1. In general.

Six per cent beer may not be stored in dry county. Op. Atty. Gen. (218o), April 8, 1940.

#### 6. Exclusive liquor store.

City has no authority to donate money to Red Cross from profits of liquor store. Op. Atty. Gen. (59a-22), Nov. 1, 1939.

Mayor of village cannot hire or discharge municipal liquor store employees contrary to objection of majority of council. Op. Atty. Gen. (353a-3), Feb. 1, 1940.

Establishment of a municipal liquor store is a matter for council to determine, and election cannot be called therefor. Op. Atty. Gen. (218G-13), Feb. 10, 1940.

A village located in a dry county but on county line may buy adjoining land in other county and establish a municipal liquor store there. Op. Atty. Gen. (484E-1), March 2, 1940.

Establishment of a municipal liquor store rests entirely within discretion of council and voters have nothing whatever to say about it. Op. Atty. Gen. (218G-13), March 19, 1940.

Funds of a municipal liquor store belong to the city and contributions may not be made to Red Cross or to any private charity, and store may not become a member in a local civic and commerce association or make appropriation to a fund to be used in attracting conventions to the city, though it may expend money for advertising in local papers, including directories and other advertising mediums. Op. Atty. Gen. (218E), April 20, 1940.

A municipal liquor store cannot be established in a city of the third class by city charter or otherwise. Op. Atty. Gen. (218G-13), Sept. 6, 1940.

Municipal liquor store may not be established until outstanding private licenses have expired, and first step is adoption of an ordinance establishing such a store and it is not necessary to put proposition up to voters, and expenditures of store must be approved by council and paid as are other village expenditures. Op. Atty. Gen. (218J-10), Nov. 28, 1940.

In absence of prohibitive charter provision authority to operate a municipal liquor store carries with it authority to incur usual costs and expenses, including advertising, but advertising must comply with rules of commission as in case of private stores. Id.

City may pay expenses of council liquor committee and manager of municipal liquor store attending Minnesota Municipal Liquor Stores Convention, within reasonable limits. Op. Atty. Gen. (218R), Dec. 6, 1940.

Village recorder cannot be appointed manager of municipal liquor store. Op. Atty. Gen. (218g-13), Dec. 17, 1940.

A member of village council may not lawfully act as manager of a municipal liquor store, and council is under no obligation to appoint a bookkeeper, and if village recorder is willing to do the work, there is no reason for appointment of any one else, and raising salary of recorder by reason thereof would not constitute violation of law forbidding public officers from being interested in contract. Op. Atty. Gen. (470g), Jan. 15, 1941.

Council of village organized under 1905 Act in buying certain brands of liquor for municipal liquor store from wholesale dealers need not advertise for bids. Op. Atty. Gen. (707a-15), Feb. 6, 1941.

#### 7. Club.

An unincorporated group, such as a local branch of the Veterans of Foreign Wars which maintains no quarters, is not eligible to a license to sell intoxicating liquors as a club. Op. Atty. Gen. (218G-15), Oct. 9, 1940.

### 3200-23. Office of commissioner—Appointment and qualifications—Removal—Salary—Bond.

Inspectors and investigators have implied power to do all things necessary to enforce all of the provisions of the act, including right to inspect all premises of licensee, all stock of liquors to see that tax thereon is paid, to investigate and suppress illegal sales, but they have only such powers of arrest as law gives to private persons, who may arrest when a crime of any kind is committed or attempted in their presence at any time of day or night without a warrant, and may use such force as is reasonable to secure and detain the offender, and may arrest for a felony without a warrant upon reasonable cause for believing that person arrested committed it. Op. Atty. Gen. (218h-3), Sept. 6, 1939.

Manifests and monthly reports submitted by wholesaler to office of liquor control commissioner are not records which public have right to inspect. Op. Atty. Gen. (218h-5), Oct. 31, 1939.

A manufacturer or wholesaler of beer or liquor may refuse to sell products to a licensed retail dealer for cash, but commission has authority to make a regula-

tion requiring sale of products to all licensed dealers. Op. Atty. Gen., (218J-11), Dec. 7, 1939.

Violation of regulation of commissioner prohibiting sale of alcohol would be a misdemeanor. Op. Atty. Gen. (218f), Sept. 12, 1940.

**3200-25. License—Fruit juices—Scope and grant of licenses—Carriers' licenses—Off and on sale licenses—Limitation of number of licenses—License fees—To whom paid—Part of year—Newly incorporated villages.**—That it shall be unlawful for any person, directly or indirectly, upon any pretense or by any device, to manufacture, import, sell, exchange, barter, dispose of or keep for sale, any intoxicating liquor, without first having obtained a license therefor, as herein provided. Nothing herein shall prohibit the natural fermentation of fruit juices in the home for family use. All manufacturer's and wholesaler's licenses shall include the right to import and shall be granted by the Liquor Control Commissioner. The business of manufacturer and wholesaler may be combined and carried on under one license issued therefor. All licenses for retail "Off sale" shall be granted by the local governing body subject to the approval of the Liquor Control Commissioner and shall not become effective until so approved.

The Liquor Control Commissioner may issue a license or permit to any railroad company, dining car company, or sleeping car company, water transportation company or other common carrier operating in this state, to sell intoxicating liquors referred to in this chapter upon any vessel, dining car, buffet, observation or cafe car where meals or lunches are served. Each such company applying for such license shall pay to said Liquor Control Commissioner a fee of Twenty-five Dollars per annum. A duplicate of such license shall be posted in each car and for each duplicate of such license a fee of One Dollar shall be paid. Such license so granted shall cover and permit the sale of such intoxicating liquor in the State of Minnesota, or in any political subdivision thereof, in any vessel, dining car, buffet, observation or cafe car which is a part of a train or which is about to become a part of a train then being operated or to be operated in this state. Such liquor to be sold only to bona fide passengers or persons actually being transported.

"Off sale" license issued by any municipality shall not be effective until approved together with the bond, by the Liquor Control Commissioner, but no fee shall be payable to such Commissioner for such approval.

All "On sale" licenses shall be granted and the annual license fee therefor fixed by the respective local governing bodies of the various political subdivisions of the state, and such governing bodies shall have the right to revoke licenses issued by them, for cause. No "On sale" licenses shall be issued contrary to any of the provisions of sections 3200-21 to 3200-56. Not more than one "On sale" license shall be issued in any city of the first class for every 1,500 inhabitants: provided, however, notwithstanding said limitation any city of the first class in which licenses have heretofore been issued upon an estimated population computed upon the increase in population in said city between the federal census of 1920 and the federal census of 1930, or where the 1940 federal census shows a decrease from the 1930 census and as a result thereof "On sale" licenses have been issued in excess of one for every 1,500 inhabitants as determined by the federal census of 1940, said city of the first class may continue to issue the number of "On sale" licenses which said city issued in the year of 1940. Not more than 200 "On sale" licenses shall be issued in any city of the first class. Not more than 15 "On sale" licenses shall be issued in any city of the second class. Provided, however, that "On sale" licenses may be issued, except in cities of the first class, in addition to the limitations as herein provided, to bona fide clubs in existence for 20 years which are duly incorporated and which licenses shall be for the sale of intoxicating liquors to members only for a license fee of \$100.00. Not more than 10 "On sale" licenses shall be issued

in any city of the third class. Not more than 5 "On sale" licenses shall be issued in any city of the fourth class, or boroughs. Not more than 10 "On sale" licenses shall be issued in any village of over 10,000 population. Not more than 5 "On sale" licenses shall be issued in any village of 5,000 to 10,000 population. Not more than 4 "On sale" licenses shall be issued in any village of 2,500 to 5,000 population. Not more than 3 "On sale" licenses shall be issued in any village of 500 to 2,500 population. Not more than 2 "On sale" licenses shall be issued in any village of less than 500 population. Provided, however, that in cities of the fourth class containing a population of more than 5,000 situated in counties containing not less than 20,000 nor more than 25,000 inhabitants according to the 1930 federal census, and containing not less than 20 nor more than 21 full and fractional congressional townships. 10 "On sale" licenses may be issued. Provided, however, that in any city of the fourth class, operating under a home rule charter, having a population in excess of 7,500 persons, located in a county having not less than 29 nor more than 30 full and fractional townships with an assessed valuation in excess of \$10,000,000, exclusive of moneys and credits, and having a population in excess of 23,000 inhabitants according to the last Federal census, the council may issue one "On sale" license for every 800 inhabitants or fraction thereof. Provided, further, that in any city of the fourth class, organized under any general or special law and having a population of not less than 500 nor more than 1,000, excepting, however, any city of the fourth class governed under a home rule charter adopted pursuant to Section 36, Article 4, of the state constitution, not more than 3 "Off sale" licenses may be issued therein. Provided, however, that in any city of the fourth class operating under a home rule charter, having a population exceeding 4,000 and not more than 4,500 inhabitants, according to the 1940 federal census, located in a county containing not less than 12 nor more than 13 townships, there may be issued in addition to the five "On Sale" licenses herein provided for, only one "On Sale" license to an hotel which operates a dining room serving meals regularly and which contains not less than forty sleeping rooms. In counties having an area of more than 5,000 square miles, if the Liquor Control Commissioner also approves, the governing body in cities of the third class may grant 15 such licenses and in cities of the fourth class may issue 9 such licenses and in villages having a population of more than 2,500 and less than 5,000, six such licenses. In cities of the fourth class situated in any county in this state having not less than 100 nor more than 110 full and fractional congressional townships and having a population of not less than 13,000 nor more than 15,000 inhabitants according to the last federal census, the number of "On sale" licenses shall be determined by the governing body thereof, and where such a city is operating a municipal liquor store at "Off sale" only. "On sale" licenses may be granted to hotels, clubs, restaurants and exclusive liquor stores. "On sale" licenses may be issued for the sale of intoxicating liquor in hotels, clubs and restaurants in cities of the first, second and third class and villages of over 10,000 inhabitants. Such licenses may be issued in cities of the fourth class, and other villages and boroughs for such sale of intoxicating liquor in hotels, clubs and/or exclusive liquor stores, which exclusive liquor stores the governing body of such municipalities may establish or permit to be established for dispensation of liquor either "On sale" or "Off sale," or both. In cities and villages having over 5,000 and not more than 10,000 population, the municipality may license "On sale" in restaurants in lieu of the establishment of exclusive liquor stores. (As amended Act Apr. 22, 1941, c. 359, §1.)

In cities of the first class not more than one "Off sale" license shall be granted for every 5,000 inhabitants in any such city: provided, however, notwith-

standing said limitation, any city of the first class in which "Off sale" licenses have heretofore been issued upon an estimated population computed upon the increase in population in said city between the federal census of 1920 and the federal census of 1930, or where the 1940 federal census shows a decrease from the 1930 census and as a result of such computation "Off sale" licenses have been issued in excess of one for every 5,000 inhabitants as determined by the federal census of 1940, said city of the first class may continue to issue the number of "Off sale" licenses which said city issued for 1940. In such cities, such licenses shall be issued only to proprietors of drug stores, general food stores and exclusive liquor stores. In all other cities, villages and boroughs, the number of "Off sale" licenses to be issued therein shall be determined by the local governing body. In all cities, villages and boroughs other than cities of the first class "Off sale" licenses shall be issued only to proprietors of drug stores and exclusive liquor stores. Not more than one "Off sale" license shall be issued in any city, village or borough of less than 1,000 population.

The license fees to be paid before the issuance of licenses shall be as follows:

(a) Any manufacturer, as herein defined, shall pay to the state, an annual license fee in the sum of \$2,500.00, except that brewers of intoxicating malt beverages shall pay to the state an annual license fee of \$500.00, and except that a manufacturer of wines containing not more than 25 per cent of alcohol by weight shall pay to the state an annual license fee of \$250.00.

(b) Any wholesaler, as herein defined, shall pay to the state an annual license fee in the sum of \$2,500.00, except that wholesalers of wine containing not more than 25 per cent of alcohol by weight and wholesalers of beer containing more than 3.2 per cent of alcohol by weight, shall pay to the state an annual license fee of \$250.00.

(c) The maximum license fee for an "Off sale" license in the cities of the first class shall be the sum of \$250.00; in all cities and villages of over 10,000 population, except cities of the first class, the maximum license fee for an "Off sale" license shall be \$200.00; in all cities and villages with a population between 5,000 and 10,000, the maximum license fee shall be \$150.00; in all cities, villages and boroughs of 5,000 population, or less, the maximum license fee shall be \$100.00. All such license fees for "Off sale" licenses shall be payable to the municipalities issuing the license. Where such licenses shall be issued for less than one year, a fee may be a pro rata share of the annual license fee. (As amended Act Jan. 31, 1941, c. 4, §1.)

Provided, however, that in any city or village which has established a municipal "Off sale" liquor store since January 1, 1940, any duly organized club which prior to January 1, 1940, held a club license, either under this section or pursuant to chapter 154, Laws 1939, shall be entitled to a new "On sale" license, notwithstanding the provision herein contained.

Nothing herein contained or omissions shall be construed as repealing any prior amendments to the foregoing section by the 1941 session of the legislature. (As amended Act Apr. 28, 1941, c. 485, §1.)

No license for the sale of intoxicating liquor shall be issued by any newly incorporated village, until the expiration of two years from the date of incorporation. (As amended Act Feb. 27, 1941, c. 34, §1.)

This section was amended by Act Jan. 31, 1941, c. 4, §1, by Act Feb. 27, 1941, c. 34, §1, by Act Apr. 22, 1941, c. 359, §1; and by Act Apr. 28, 1941, c. 485, §1. Such amendments were not inconsistent with each other and all are incorporated in the above section.

#### 1. In general.

In prosecution for sale of intoxicating liquor without a license wherein it appeared that bottle purchased was not produced at trial and witness testified that it was accidentally broken and contents spilled, there was no error in permitting testimony as to labels and stamps upon bottle when sold, nor as to odor of contents. *State v. Russell*, 296NW575. See Dun. Dig. 4945.

Formal part of a complaint for sale of intoxicating liquors without a license prescribed. *Op. Atty. Gen.*, (218f), Oct. 18, 1939.

Possession of liquor for purposes of sale without a license is a misdemeanor, and finding of liquor under search warrant is prima facie evidence that it is kept for unlawful purpose of sale. *Op. Atty. Gen.* (133B-40), June 18, 1940.

Licenses may be transferred by governing body subject to approval of liquor control commissioner. *Op. Atty. Gen.* (217b-6), July 6, 1940.

License fee may not be refunded on transfer of business or surrender of license. *Id.*

An unincorporated group, such as a local branch of the Veterans of Foreign Wars which maintains no quarters, is not eligible to a license to sell intoxicating liquors as a club. *Op. Atty. Gen.* (218G-15), Oct. 9, 1940.

#### 2. Necessity of license.

Evidence held to sustain conviction for sale of liquor without a license in violation of city ordinance. *State v. Russell*, 296NW575. See Dun. Dig. 4920.

If there is no consumption of beverages on premises, it is not necessary for off sale licensee to obtain a refreshment license from division of hotel inspection. *Op. Atty. Gen.*, (238f), Oct. 23, 1939.

A club cannot sell liquor to members without a license, and may not obtain a license in a city where there is a municipally owned exclusive liquor store. *Op. Atty. Gen.* (218g-15), Feb. 17, 1941.

#### 3. Powers of municipalities in general.

Provision in a liquor ordinance that "all requirements and provisions of the state laws concerning sale of intoxicating liquors are hereby incorporated into and made a part of this ordinance" is valid. *Op. Atty. Gen.*, (62a), Feb. 1, 1940.

Revocation of license is mandatory where violation of statutes is wilful, otherwise revocation is discretionary, and violation by an employee would be discretionary unless licensee himself had knowledge of act and consented to or acquiesced in it, and there should be a hearing whether or not there has been a conviction for a violation. *Op. Atty. Gen.*, (218G-14), April 8, 1940.

Where city ordinance prohibits transfer of a license, council cannot authorize or consent to transfer of license to purchaser of business. *Op. Atty. Gen.* (218G-10), Sept. 13, 1940.

Revocation of a license for cause requires a hearing, but an application for a renewal may be denied without any hearing. *Op. Atty. Gen.* (218g-5), Jan. 15, 1941.

Under Laws 1941, providing that no license should be issued by any newly incorporated village until expiration of 2 years from date of incorporation, a village incorporated within 2 years prior to amendment may not issue licenses after passage of act, but a license obtained prior to effective date of amendment was not nullified. *Op. Atty. Gen.* (218g-11), Mar. 11, 1941.

#### 4. Sale of 3.2% beer.

On sale licenses for non-intoxicating liquor may be issued to persons who already have on sale hard liquor establishment, but they must be drug stores, restaurants, hotels, or bona fide clubs. *Op. Atty. Gen.* (217B-5), June 8, 1940.

An exclusive liquor store as defined by city ordinance could not sell non-intoxicating malt beverages without obtaining a non-intoxicating malt liquor license. *Op. Atty. Gen.* (218g-13), Mar. 3, 1941.

#### 6. Limitation of number of licenses.

If licenses issued to clubs are general on-sale licenses for sale to the public or to any one other than club members, they must be counted in limit placed upon "on-sale" licenses, unless clubs are willing to surrender them and accept special club license permitting sale to members only. *Op. Atty. Gen.*, (218g-6), Nov. 27, 1939.

Computation of population of cities or villages for purpose of determining number of liquor licenses is governed by last official state or federal census, and no effect may be given a private census. *Op. Atty. Gen.*, (218g-1), Feb. 6, 1940.

Club license, assuming that liquor is sold to club members only, may be excluded in computing on sale license. *Op. Atty. Gen.* (218G-6), June 4, 1940.

An on-sale license issued to a club for sale of liquor to general public must be counted in limitation of on-sale licenses. *Op. Atty. Gen.* (218G-15), Aug. 14, 1940.

A club cannot sell liquor to members without a license, any may not obtain a license in a city where there is a municipally owned exclusive liquor store. *Op. Atty. Gen.* (218g-15), Feb. 17, 1941.

#### 9. Exclusive liquor stores.

License for sale of intoxicating liquor may not be issued to a private individual or group in a village where there is a municipal liquor store, except in International Falls. *Op. Atty. Gen.* (218G-15), Oct. 9, 1940.

Village recorder cannot be appointed manager of municipal liquor store. *Op. Atty. Gen.* (218g-13), Dec. 17, 1940.

So long as International Falls municipal liquor store is "off-sale" only, no drug store there can legally hold a license to sell liquor at off-sale, and may operate under a "permit," costing \$5 per year to sell intoxicating liquors on prescriptions only. *Op. Atty. Gen.* (218j-3), Jan. 10, 1941.

Village maintaining an off-sale municipal liquor store may not issue a private license. *Op. Atty. Gen.* (218g-13), Jan. 22, 1941.

A club cannot sell liquor to members without a license, and may not obtain a license in a city where there is a municipally owned exclusive liquor store. Op. Atty. Gen. (218g-15), Feb. 17, 1941.

#### 11. License fees.

Where owner of an exclusive liquor store sells his business, and city ordinance prohibits transfer of licenses, city council cannot refund part of license fee or authorize transfer or grant a license for unexpired term for nothing, but may issue a license on pro-rata basis for a shorter period than one year. Op. Atty. Gen. (218g-10), Sept. 13, 1940.

### 3200-26. Application for license—Bond or deposit—Conditions—Forfeiture.

In absence of ordinance so providing or some provision in bond, full amount of bond may not be forfeited upon revocation of liquor license. Op. Atty. Gen., (218h-6), March 14, 1940.

General public or an individual may recover damages by reason of unlawful sale or giving away of intoxicating liquor. Op. Atty. Gen. (218-L), July 16, 1940.

### 3200-27. Revocation of licenses—Financial interest in liquor retail business—Etc.

#### 1. In general.

License may be transferred if village which issued it consents to its transfer. Op. Atty. Gen., (218g-10), Dec. 1, 1939.

Provision that "no more than one license shall be issued to any person in any municipality, except as specifically provided by this act" prohibits issuance of more than one license to any corporation within same municipality. Op. Atty. Gen., (218g-12), Feb. 16, 1940.

An on sale liquor license may be transferred with consent and approval of body which issued it. Op. Atty. Gen., (218g-14), March 30, 1940.

Revocation of license is mandatory where violation of statutes is wilful, otherwise revocation is discretionary, and violation by an employee would be discretionary unless licensee himself had knowledge of act and consented to or acquiesced in it, and there should be a hearing whether or not there has been a conviction for a violation. Op. Atty. Gen., (218g-14), April 8, 1940.

Revocation of a license for cause requires a hearing, but an application for a renewal may be denied without any hearing. Op. Atty. Gen. (218g-5), Jan. 15, 1941.

#### 2. Manufacturers interested in retail business.

There is no law which prohibits a manufacturer or wholesaler from being financially interested in another wholesale business. Op. Atty. Gen., (218g-4), Feb. 1, 1940.

#### 3. Several classes of licenses in same premises.

Permit to drug store in dry territory to sell liquor on prescription is authorized, and does not prevent issuance of 3.2 beer license. Op. Atty. Gen., (218j-3), Sept. 28, 1939.

"Plain view of the public" means in "plain view of the public inside the building". Op. Atty. Gen., (218E), March 18, 1940.

An on sale intoxicating liquor licensee, if eligible in other respects, may also be licensed to sell non-intoxicating malt beverages, and an exclusive liquor store may obtain a non-intoxicating malt liquor off sale license, but not an on sale license. Op. Atty. Gen., (218g-5), April 18, 1940.

On sale licenses for non-intoxicating liquor may be issued to persons who already have on sale hard liquor establishment, but they must be drug stores, restaurants, hotels, or bona fide clubs. Op. Atty. Gen. (217B-5), June 8, 1940.

#### 4. Municipality maintaining exclusive liquor store.

So long as International Falls municipal liquor store is "off-sale" only, no drug store there can legally hold a license to sell liquor at off-sale, and may operate under a "permit," costing \$5 per year to sell intoxicating liquors on prescriptions only. Op. Atty. Gen. (218j-3), Jan. 10, 1941.

**3200-28. Regulation of sales—Prohibited times, places, and persons—Orderly conduct—Gambling devices—Prostitutes—Employment of minors—Pool and billiard tables.**—Subdivision 1. No sale of intoxicating liquor shall be made on Sunday nor before three o'clock P. M. on any Memorial Day nor before eight o'clock P. M. on any Election Day in the district in which such election shall be held. No "On sale" shall be made before eight o'clock A. M., or after 12 o'clock midnight on any day. Provided, however, in cities of the first and second class only, "On sale" may be permitted until two hours after 12 o'clock midnight on Saturday and until one hour after 12 o'clock midnight on Monday, Tuesday, Wednesday, Thursday and Friday. No "Off sale" shall be made before eight o'clock A. M. or after eight o'clock P. M. of any day except Saturday, on which day "Off sales" may be made until ten o'clock P. M.; provided, however, that no "Off sale" shall be made on New Year's day, January 1; Memorial day, May 30; Independence

day, July 4; Thanksgiving day or Christmas day, December 25; but on the evenings preceding such days, if the sale of liquor is not otherwise prohibited on such evenings, "Off sales" may be made until ten o'clock P. M., except that no off sale shall be made on December 24 after eight o'clock P. M. No "On sale" place of business shall be permitted to have swinging doors or opaque windows. All sales shall be made in full view of the public. No intoxicating liquor shall be sold or furnished for any purpose whatever to any person under the age of 21 years, or to an habitual drunkard or to any person obviously intoxicated or to any of the persons to whom sale is prohibited by statute or by reason of sale to whom a penalty is provided by statute.

Subdivision 2. No intoxicating liquors shall be sold within the capitol or upon the grounds thereof, or upon the state fair grounds or in any place where such sales shall be prohibited by law or by the ordinance of any city, village or borough. Every licensee shall be responsible for the conduct of his place of business and for conditions of sobriety and order therein. No licensee shall keep, possess or operate, or permit the keeping, possession or operation of, on the licensed premises, or in any room adjoining the licensed premises, any slot machine, dice or any gambling device or apparatus, nor permit any gambling therein, or permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under its control, to be used as a resort for prostitutes or other disorderly persons. No person under 21 years of age shall be employed in any rooms constituting the place in which intoxicating liquors are sold at retail "On sale." No pool table or billiard table shall be kept or used in any "On sale" premises except a club as defined in this act. (As amended Act Apr. 24, 1941, c. 415, §1; Act Apr. 28, 1941, c. 503, §1.)

The retail sale for beverage purposes of ethyl alcohol or neutral spirits, or substitutes thereof, possessing the taste, aroma and characteristics generally attributed to ethyl alcohol or neutral spirits, as such, is hereby prohibited. Nothing in this paragraph shall be construed to prohibit the manufacture or sale of other products obtained by the use of ethyl alcohol or neutral spirits as defined in the Standards of Identity for Distilled Spirits, Article Two (2), Regulations number five (5), Federal Alcohol Administration. (Act Jan. 6, 1934, Ex. Ses., c. 46, §8; Mar. 31, 1939, c. 101, §2; Apr. 22, 1939, c. 429.)

**Editorial note:**—The last paragraph of this section was amended by Laws 1939, c. 101, and also by Laws 1939, c. 429. Both should be given effect.

#### 1/2. In general.

Holder of hard liquor license and 3.2 beer license need not maintain separate places or rooms. Op. Atty. Gen. (217B-5), June 8, 1940.

#### 1. Prohibited times.

Person holding hard liquor license and also 3.2 beer license can remain open after 12:00 o'clock and sell beer. Op. Atty. Gen. (217B-5), June 8, 1940.

#### 2. Prohibited persons.

A tavern is liable for death of minor either given or sold liquor. Sworski v. C., 293NW297. See Dun. Dig. 4928a.

Section 4111-1 is the only statute bearing on question of prohibiting employment of a minor under 18 years of age in 3.2 beer establishments, and fact that minor is child of owner is immaterial. Op. Atty. Gen., (218j-12) April 3, 1940.

Municipal liquor store may not sell intoxicating liquor to father of a minor child, such liquor to be consumed by such minor upon the premises. Op. Atty. Gen. (218j-12), Sept. 5, 1940.

#### 5. Prohibited places.

Mason's 1940 Minnesota Supplement, §10165, forbidding issuance of a dance hall license for any place which has direct or indirect communication with any room where intoxicating liquor is sold, is still in force and effect. Op. Atty. Gen. (802a-3), Nov. 29, 1940.

### 3200-29. Commissioner to assist public education; etc.

It is common knowledge that large amounts of alcohol may cause death. Sworski v. C., 293NW297. See Dun. Dig. 3451.

### 3200-30. Licenses for sale of intoxicating liquors.

Act Apr. 24, 1941, c. 401, authorizes any city or village in a county with population of 14,500 to 15,000, 24

to 28 townships, and assessed valuation of \$4,500,000 to \$5,000,000, to hold an election for the establishment of a municipal liquor store.

Kittson County is still a dry county, and a village therein cannot vote on question of licensing sale of intoxicating liquor, unless the county votes thereon, Laws 1939, chapter 295, amending this section, seeming to apply only to Otter Tail County. Op. Atty. Gen., (218c-3), Oct. 26, 1939.

There is no state law which prohibits a gift of intoxicating liquor or nonintoxicating malt beverages, but it may be argued that a gift of liquor or beer with a meal by a hotel or restaurant would be a mere subterfuge. Op. Atty. Gen., (217), Nov. 4, 1939.

All of Cottonwood County will continue to be a dry county until a special election is held pursuant to §3200-41, and until that time a village cannot hold an election under §3200-35. Op. Atty. Gen., (218c-3), Nov. 7, 1939.

Prior to enactment of Laws 1939, c. 395, amending this section, electors of a city or village had no legal right to vote on question of operating a municipal liquor store, and since passage of that act only cities or villages described by it may have election under it. Op. Atty. Gen., (218G-13), Dec. 14, 1939.

Blank ballots cannot be counted in determining result of election for or against municipal liquor store. Op. Atty. Gen., (218G-13), Dec. 16, 1939.

A village located in a dry county but on county line may buy adjoining land in other county and establish a municipal liquor store there. Op. Atty. Gen., (484E-1), March 2, 1940.

### **3200-32. Sale for medicinal, mechanical and scientific purposes—License.**

So long as International Falls municipal liquor store is "off-sale" only, no drug store there can legally hold a license to sell liquor at off-sale, and may operate under a "permit," costing \$5 per year to sell intoxicating liquors on prescriptions only. Op. Atty. Gen., (218j-3), Jan. 10, 1941.

A pharmacist holding a \$5 permit may sell to a dentist or physician one quart of alcohol on each prescription or any dentist or physician may secure a \$1 permit which will give him right to purchase 2 gallons of alcohol per year from a licensed wholesale dealer. Op. Atty. Gen., (218J-17), Feb. 20, 1941.

### **3200-33. Removal of officers who fail to perform duty—Etc.**

(b). In absence of ordinance so providing or some provision in bond, full amount of bond may not be forfeited upon revocation of liquor license. Op. Atty. Gen., (218h-6), March 14, 1940.

Revocation of license is mandatory where violation of statutes is wilful, otherwise revocation is discretionary, and violation by an employee would be discretionary unless licensee himself had knowledge of act and consented to or acquiesced in it, and there should be a hearing whether or not there has been a conviction for a violation. Op. Atty. Gen., (218G-14), April 8, 1940.

(d). City officers who issue any licenses in excess of statutory limitation may lay themselves open to prosecution for a gross misdemeanor. Op. Atty. Gen., (218g-6), Nov. 27, 1939.

### **3200-35. Local option elections in villages.**

All of Cottonwood County will continue to be a dry county until a special election is held pursuant to §3200-41, and until that time a village cannot hold an election under §3200-35. Op. Atty. Gen., (218c-3), Nov. 7, 1939.

### **3200-37. Local option election in fourth class cities on petition of voters—Notice.**

Where city was located in two counties and each county had a local option election and one voted wet and the other dry, respective votes in such election cannot be considered in determining whether city is wet or dry, and city may hold a new election to determine whether licenses may be granted in portion of city in the wet county. Op. Atty. Gen., (218c-1), April 22, 1940.

After city electors have voted "for license" it is entirely discretionary with city council to pass kind of ordinance they want, and thereby either create a municipally owned liquor store, or grant private licenses. Id.

### **3200-38. Same—Ballots—Marking and casting; etc.**

A ballot entitled "Liquor License Ballot" instead of "License Ballot" is valid. Op. Atty. Gen., (218c-1), Feb. 24, 1941.

### **3200-41. Same—Special election—Time.**

Special elections should not be held at same time, or close to time of any general or primary village election. Op. Atty. Gen., (218c) Oct. 21, 1939.

All of Cottonwood County will continue to be a dry county until a special election is held pursuant to §3200-41, and until that time a village cannot hold an election under §3200-35. Op. Atty. Gen., (218c-3), Nov. 7, 1939.

### **3200-44. Same—Challenge of voters.**

Establishment of a municipal liquor store is a matter for council to determine, and election cannot be called therefor. Op. Atty. Gen., (218G-13), Feb. 10, 1940.

### **3200-49. Same—Result of election and effect thereof—Accrued offenses.**

Where city was located in two counties and each county had a local option election and one voted wet and the other dry, respective votes in such election cannot be considered in determining whether city is wet or dry, and city may hold a new election to determine whether licenses may be granted in portion of city in the wet county. Op. Atty. Gen., (218c-1), April 22, 1940.

Where county votes wet, every city or village which voted dry prior to 1918 remains a dry city or village until an election is held under §3200-35 or §3200-37, but a city or village which never voted dry under local option laws is considered as wet. Id.

### **3200-51. Same—Offenses in prohibition territory—Unexpired licenses—Etc.**

Six per cent beer may not be stored in dry county. Op. Atty. Gen., (218o), April 8, 1940.

## **LIQUOR TAX ACT**

**3200-62. Excise tax.**—(a) There shall be levied and collected on all intoxicating liquors, sold in this state, the following excise tax:

(1) On all unfortified wines the sum of 10 cents per gallon.

(2) On all fortified wines from 14 per cent to 21 per cent of alcohol by volume, the sum of 30 cents per gallon.

(3) On all fortified wines from 21 per cent to 24 per cent of alcohol by volume the sum of 60 cents per gallon.

(4) On all fortified wines containing more than 24 per cent of alcohol by volume, the sum of \$1 per gallon.

(5) On all natural sparkling wines containing alcohol, the sum of \$1 per gallon.

(6) On all artificial sparkling wines containing alcohol, the sum of 40 cents per gallon.

(7) On all other distilled spirituous liquors, liquors and cordials, the sum of \$1 per gallon, but not including Ethyl alcohol.

Provided that in computing the tax on any package of spirits a proportionate tax at a like rate on all fractional parts of a gallon shall be paid, except that all fractional parts of a gallon less than 1-16 shall be taxed at the same rate as shall be taxed for 1-16 of a gallon.

(b) An excise tax is hereby assessed, imposed and levied upon the sale, either directly or indirectly, of fermented malt beverages other than for shipment in interstate or foreign commerce; provided, however, that such tax shall not be imposed or collected upon fermented malt beverages given away by a brewery for consumption only upon the brewery premises, for which no charge of any kind is made or collected; nor shall fermented malt liquors distributed to brewery employes for consumption only upon the brewery premises pursuant to a contract of employment be subject to such tax. The tax shall be levied and shall be collected at the rate of \$1 per barrel of 31 gallons, containing not more than 3.2 per cent of alcohol by weight, and a tax of \$2 per barrel of 31 gallons containing more than 3.2 per cent of alcohol by weight, and at a proportionate rate for fractional parts thereof. All the receipts from said taxes shall be paid into the general revenue fund by the liquor control commissioner. (As amended Act Mar. 5, 1941, c. 47, §1.)

If officers' club at Fort Snelling purchases liquor in interstate commerce, so that no sale occurs within state, then no state tax can be collected, but if such liquor is then sold by them, state is entitled to collect usual tax. Op. Atty. Gen., (218K), Nov. 27, 1940.

### **3200-63. Stamps—Payment of—Regulations—Affixing stamps to containers.**

(b). Act is not levied upon beer manufactured in state and shipped out of state or wasted, but only upon beer sold within the state. Op. Atty. Gen., (218k), Sept. 29, 1939.

### **3200-65. Commissioner to enforce act—Employees—Record of sale of stamps—Inspection of books and premises.**

Manifests and monthly report submitted by wholesaler to office of liquor control commissioner are not records which public have right to inspect. Op. Atty. Gen., (218h-5), Oct. 31, 1939.



Regulation relating to labeling and standards of fill of non-intoxicating malt beverages is valid. Op. Atty. Gen., (218h-2), April 5, 1940.

### 3200-68. Unstamped liquor confiscated.

If bottles of whiskey taken from a bootlegger's car do not bear proper tax stamps they may be confiscated as contraband property pursuant to this section, but if they bear proper tax stamps they cannot be confiscated except by order of court after a conviction under some law. Op. Atty. Gen., (218f-3), Oct. 31, 1939.

### 3200-69. Offenses—Felony.

Sale of liquor in refilled bottles or changing alcoholic content of original packages or bottles is unlawful. Laws 1941, c. 16.

## SEARCHES AND SEIZURES

### 3200-81. Search and seizure of intoxicating liquor.

This act does not apply to places selling 3.2 beer without a license. Op. Atty. Gen. (218f-3), May 28, 1940.

### 3200-84. Sheriff's contingent fund established.

Money received from licenses is not included in fund. Op. Atty. Gen., (390a-10), Feb. 13, 1940.

## MISCELLANEOUS OFFENSES

**3200-85. Refilling bottles.**—It shall be unlawful for any person to sell, offer for sale or keep for sale intoxicating liquors in any package or intoxicating liquor bottle which has been refilled or partly refilled. (Act Feb. 21, 1941, c. 16, §1.)

**3200-86. Dilution and adulteration.**—It shall be unlawful for any person holding an intoxicating liquor license, directly or through any agent, employee or other person, to dilute or in any manner tamper with the contents of any original package or bottle so as to change its composition or alcoholic content while in said original package or bottle; and possession on the licensed premises by any licensee of any intoxicating liquor in the original package or bottle, differing in composition or alcoholic content from such liquor when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of said original package or bottle has been diluted, changed or tampered with. (Act Feb. 21, 1941, c. 16, §2.)

**3200-87. Gross misdemeanor.**—Any person who violates the provisions of this act, as provided in sec-

tions 1 and 2, shall be guilty of a gross misdemeanor. (Act Feb. 21, 1941, c. 16, §3.)

## PRIOR LAWS

### 3238-3. Places where sale forbidden.

There is no state law prohibiting licensing or operation of a place for sale of intoxicating liquor near a church. Op. Atty. Gen. (218g-1b), Mar. 27, 1941.

### 3238-4. Persons to whom sales, etc., illegal.

Provisions forbidding sale of intoxicating liquor by persons who have been blacklisted do not apply to sale of non-intoxicating malt beverages. Op. Atty. Gen. (218e), June 6, 1940.

Municipal liquor store may not sell intoxicating liquor to father of a minor child, such liquor to be consumed by such minor upon the premises. Op. Atty. Gen. (218j-12), Sept. 5, 1940.

Indian rights and the federal courts. 24MinnLawRev 145.

### 3238-9. Sales, etc., to minors; etc.

Provisions forbidding sale of intoxicating liquor by persons who have been blacklisted do not apply to sale of non-intoxicating malt beverages. Op. Atty. Gen. (218E), June 6, 1940.

### 3238-12. Exclusion from places where liquor is sold to minors, etc., after notice—Penalty.

Where mayor of village in a dry county posted a notice in a beer parlor not to sell beer to a certain person, and was sued for libel, village council may reimburse mayor for attorneys fees and other expenses, and also a reasonable sum paid in settlement. Op. Atty. Gen., (469B-1), Nov. 16, 1939.

### 3238-18½. Sale by employee.

Revocation of license is mandatory where violation of statutes is wilful, otherwise revocation is discretionary, and violation by an employee would be discretionary unless licensee himself had knowledge of act and consented to or acquiesced in it, and there should be a hearing whether or not there has been a conviction for a violation. Op. Atty. Gen. (218g-14), April 8, 1940.

Section does not apply to off-sale liquor stores. Op. Atty. Gen. (218j-10), May 28, 1940.

## CIVIL ACTIONS

### 3239. Action for injuries caused by intoxication.

Whether minor purchased or was given liquor at bar and as a result thereof died in jail, warranting recovery of damages by parents, held for jury, even though he committed suicide. Sworski v. C., 293NW297. See Dun. Dig. 4928a.

A person is liable for giving as well as selling liquor. id.

## CHAPTER 16A

### Cigarettes

### 3242. Licensing of sale of cigarettes; etc. [Repealed.]

Repealed. Laws 1941, c. 242.  
Repealed. Laws 1941, c. 405.

### 3243. Licenses for sale and manufacture of cigarettes. [Repealed.]

Repealed. Laws 1941, c. 242.  
Repealed. Laws 1941, c. 405.  
Blind persons may manufacture or sell cigarettes without payment of license fee. Laws 1941, c. 461.

**3243-1. Exemptions—Blind persons.**—No applicant for any license required of persons for the sale or manufacture of cigarettes shall be required to pay any fee to the state or any political subdivision thereof if he furnishes a doctor's certificate showing that he is blind, as defined by Laws of 1937, Chapter 324. (Act Apr. 26, 1941, c. 461, §1.)

### 3244 to 3248. [Repealed.]

Repealed. Laws 1941, c. 242.  
Repealed. Laws 1941, c. 405.  
Sec. 2, Act Apr. 24, 1941, c. 405, provides that the powers and duties of the commissioner of taxation with respect to enforcement of cigarette license law shall continue until Dec. 31, 1941, and thereafter to the extent necessary to enforce penalties previously accrued.

**3250-1. Repeal.**—Mason's Minnesota Statutes of 1927, Sections 3242, 3244, 3245, 3246, 3247, and Mason's Supplement 1940, Sections 3243 and 3248, are

hereby repealed, effective December 31, 1941. (Act Apr. 16, 1941, c. 242, §1; Act Apr. 24, 1941, c. 405, §1.)

**3250-2. Powers and duties of Commissioner of Taxation Continued.**—The powers and duties of the commissioner of taxation with respect to the enforcement of the laws relating to licensing the manufacture and sale of cigarettes shall continue until December 31, 1941, and thereafter to the extent necessary to enforce penalties and collect fees accruing prior to said date. (Act Apr. 16, 1941, c. 242, §2; Act Apr. 24, 1941, c. 405, §2.)

**3250-3. License and retail sale to be regulated by local governing bodies.**—The governing body of each village, borough, and city of any class, may, after January 1, 1942, license and regulate the sale at retail of cigarettes, cigarette paper or cigarette wrappers and may fix the license fee therefor at not to exceed \$12.00 per annum, and provide for the punishment of any violation of such regulations, and may make such other provisions for the regulation of the sale of cigarettes within its jurisdiction as are permitted by law. The county board may make like provisions for licensing and regulating the sale of cigarettes in areas outside the limits of any municipality, provided that