

Police Regulations

CHAPTER 340

INTOXICATING LIQUORS

Sec.	Sec.
340.01 Licenses for sale of non-intoxicating beverages	340.41 Liquor stores may sell food, tobacco, and soft drinks
340.02 Unlawful to sell unless licensed	340.42 Restricted territory in certain cities
340.021 Closing hours for sale of non-intoxicating liquors	340.43 Distance from educational institutions
340.022 Municipalities may not extend closing hours	340.44 Liquor tax act; definitions
340.023 Violations of sections 340.021 and 340.022	340.45 Filing proof of federal permit
340.024 Sheriff's contingent fund established	340.46 Labels on containers
340.025 Licenses for sale of malt and intoxicating liquor	340.47 Excise tax
340.026 3.2 licensee shall not display federal retail tax stamp; violation	340.48 Violation; penalty
340.03 Unlawful to sell to persons under 21 years of age	340.49 Stamps
340.04 Duration of licenses	340.50 Exceptions
340.05 Penalty	340.51 Enforcement; employees; record of sale of stamps; inspection of books and premises
340.06 Non-intoxicating malt liquors excluded	340.52 Invoices of liquors imported; checking
340.07 Liquor control; construction of terms	340.53 Unlawful affixing of labels; forgery and counterfeiting
340.08 Liquor control commissioner	340.54 Unstamped liquor confiscated
340.09 Office assistants	340.55 Offenses; felony
340.10 Publishing regulations	340.56 Offenses; misdemeanor
340.11 Licenses	340.57 Certain cities may issue liquor licenses
340.12 Application for license	340.58 Restrictions
340.13 Revocation of licenses	340.59 Law repealed by popular vote
340.14 Regulations	340.60 Liquor receipts paid into state treasury
340.141 Refilling of bottles	340.61 Outstanding certificates to be redeemed
340.142 Diluting or tampering with contents of original package	340.62 Certain liquor must be registered
340.143 Violation of section 340.141 or 340.142 a gross misdemeanor	340.63 Destruction or disposition of seized liquors
340.15 Commissioner to assist public education respecting effects of alcohol; regulating advertising	340.64 To report to department of social security
340.16 Licenses not to issue in places voting against eighteenth amendment; local regulations	340.65 Search and seizure
340.17 Sacramental wine; license of sale	340.66 Possession prima facie evidence
340.18 Sale for medicinal, mechanical and scientific purposes	340.67 Officer to make inventory
340.19 Removal of officers; licenses revoked; bonds forfeited; violations	340.69 Certain acts declared to be murder
340.20 Local option elections in villages	340.70 Sale of intoxicating liquors liable to cause permanent physical or mental injury a felony
340.21 Result of election	340.71 Selling or giving away any poisonous liquor a gross misdemeanor
340.22 Local option election in cities of fourth class on petition	340.72 Places where sale forbidden
340.23 Ballots; marking and casting; canvass; result; manufacture; prescriptions	340.73 Persons to whom sales are illegal
340.24 Charter and ordinance provisions continued; suspension	340.74 Fraudulent shipments
340.25 Local option elections in counties; petition	340.75 Liquor near state fair grounds
340.26 Special election	340.76 Pharmacists; illegal acts
340.27 Notice of special election	340.77 Physicians; illegal acts
340.28 Judges and clerks of election	340.78 Sales to minors, habitual drunkards, or persons under guardianship after notice
340.29 Challenge to voters	340.79 Giving to, or procuring for, minors
340.30 Ballots	340.80 Inducing minors to enter saloons
340.31 Laws applicable; oath to voters	340.81 Exclusion of minors from places where liquor is sold after notice; penalty
340.32 County canvassing board; canvass and certification of result	340.82 Sale to Indians
340.33 Contest of election; mandamus	340.83 Sales to persons paroled from state institutions
340.34 Result of election; accrued offenses	340.84 Knowledge
340.35 Licenses withheld and suspended; refund	340.85 Duties of officers
340.36 Offenses in prohibition territory; unexpired licenses; liquor manufactured and stored; prescriptions by physicians	340.86 Neglect of duties by officers
340.37 Certificate of result of election as evidence in pleadings	340.87 Definitions
340.38 Arrest of violators; complaints and prosecutions	340.88 Intoxicated persons on street cars or railway trains
340.39 Statutes and ordinances, when not operative	340.89 Drinking on trains, street cars
340.40 Petition for election; order; notice; certificate	340.90 Permitting drinking on trains, street cars; penalty
	340.91 Conductors to arrest
	340.92 Intoxicated persons leaving trains; duties of conductor and employees
	340.93 Seizure of liquors
	340.94 Prosecutions and evidence
	340.941 Sale by employee
	340.95 Civil actions for injuries caused by intoxication
	340.96 Drunkenness; successive offenses; suspension of sentence

340.01 LICENSES FOR SALE OF NON-INTOXICATING BEVERAGES.
 There is hereby conferred upon the governing body of each county, city, village, and borough in the state, the authority to license and regulate the business of

MINNESOTA STATUTES 1941

2445

INTOXICATING LIQUORS 340.024

vendors at retail or wholesale of non-intoxicating malt liquors within their respective jurisdictions, to impose a license fee therefor and to provide for the punishment of any violation of any such regulations according to the provisions of law; provided, that no such business may be licensed by the county board to be located in any town, unless the consent of the governing body of such town, if organized, is filed with the application for such license.

[1933 c. 116 s. 1] (3200-5)

340.02 UNLAWFUL TO SELL UNLESS LICENSED. It shall be unlawful to sell non-intoxicating malt liquors, at retail, or wholesale, except when licensed as hereinafter provided. There shall be two kinds of licenses:

(1) "On sale" licenses shall permit the licensee to sell such non-intoxicating malt liquors for consumption on the licensed premises, and the license fee therefor shall be \$10.00 per annum, unless the county, city, village, or borough wherein the premises are situated shall fix a higher fee to be paid to such county, city, village, or borough; "on sale" licenses shall be granted only to drug stores, restaurants, hotels and bona fide clubs; provided, that no manufacturer of such non-intoxicating malt liquors shall have any ownership, in whole or in part, in the business of any licensee holding an "on sale" license. A bona fide club under sections 340.01, 340.02, and 340.03 to 340.06 is an organization for social or business purposes or for intellectual improvement, or for the promotion of sports, where the serving of such non-intoxicating malt liquors is incidental and not the major purpose of the club;

(2) "Off sale" licenses shall permit the licensee to sell non-intoxicating malt liquors in original packages for consumption off the premises only, and the license fee therefor shall be \$5.00 per annum;

(3) The secretary of state may issue an "on sale" license to any railroad company operating within the state which shall permit such railroad company to sell such non-intoxicating liquors in its dining cars, buffet cars, and observation cars; such company shall keep a duplicate of such license posted in each car where such malt liquors are served; each railroad company applying for such license shall pay to the secretary of state a fee of \$25.00 for such license and 25 cents for each duplicate thereof, which fee shall be paid into the state treasury.

A manufacturer of non-intoxicating malt liquor may, without license, sell such liquor to licensed dealers holding either "on sale" or "off sale" licenses, and may sell and deliver the same, in quantities of not less than two gallons, direct to consumers at their homes.

No manufacturer of non-intoxicating malt liquor, nor any affiliate or subsidiary company of such manufacturer, shall sell such liquor except as herein restricted. An affiliate or subsidiary company shall be one in which such manufacturer or its stockholders own a majority of the stock.

Licenses hereunder shall be issued only to persons who are citizens of the United States and who are of good moral character and repute.

[1933 c. 116 s. 2] (3200-6)

340.021 CLOSING HOURS FOR SALE OF NON-INTOXICATING LIQUORS. No non-intoxicating liquors containing from one-half of one per cent by volume or 3.2 per cent of alcohol by weight shall be sold in this state between the hours of one a. m., and seven a. m., on any day except Sunday, and between the hours of two a. m. and 12 m. on any Sunday.

[1939 c. 402 s. 1] (3200-10a)

340.022 MUNICIPALITIES MAY NOT EXTEND CLOSING HOURS. It shall be beyond the power of any political subdivision of this state to authorize or permit the sale of non-intoxicating malt liquors at hours when such sale is prohibited by the provisions of sections 340.021 to 340.023, but such political subdivisions may, within the time the laws of this state permit such sale, further limit the hours of sale of non-intoxicating liquors.

[1939 c. 402 s. 2] (3200-10b)

340.023 VIOLATIONS OF SECTIONS 340.021 AND 340.022. Any violation of sections 340.021 and 340.022 shall be punished as a misdemeanor and shall be cause for the revocation or suspension of the license of the offender.

[1939 c. 402 s. 3] (3200-10c)

340.024 SHERIFF'S CONTINGENT FUND ESTABLISHED. There is hereby created in each county in this state a sheriff's contingent fund to be kept by the county treasurer as all other county funds. One-fourth of all moneys paid into the county treasury of any county in this state on account of fines imposed for violation

of any law of this state relating to intoxicating liquor or the licensing and sale of non-intoxicating malt beverages shall be credited to the sheriff's contingent fund. The sheriff of each county is authorized to expend moneys from said fund in investigating and securing evidence of violations of the intoxicating liquor laws of this state or of the laws pertaining to the sale of malt beverages. Moneys may be withdrawn from the fund by the sheriff upon application to the district court and upon the order of the court. At the end of any calendar year any moneys remaining in the fund in excess of \$100.00 shall be transferred into the general revenue fund of the county.

[1939 c. 111] (3200-84)

340.025 LICENSES FOR SALE OF MALT AND INTOXICATING LIQUOR.

No license for the sale of non-intoxicating malt liquor, containing not more than 3.2 per cent of alcohol by weight, shall be issued to any person who is also the owner and holder of, or to whom there is hereafter issued, a federal retail liquor dealer's special tax stamps for the sale of intoxicating liquor at any place unless there has also been issued to such person a license to sell intoxicating liquor pursuant to the laws of this state at such place; and the non-intoxicating malt liquor license of any person who is also the owner and holder of, or to whom there is hereafter issued, such federal retail liquor dealer's special tax stamp, and who does not have a license to sell intoxicating liquors pursuant to the laws of this state for such place, shall be forthwith revoked by the governing body issuing the same, without notice and without a hearing on such revocation.

[1939 c. 138 s. 1] (3965-19)

340.026 3.2 LICENSEE SHALL NOT DISPLAY FEDERAL RETAIL TAX STAMP; VIOLATION. Any person who sells non-intoxicating malt liquor, containing not more than 3.2 per cent alcohol by weight, while holding or exhibiting in his place of business a federal retail liquor dealer's special tax stamp, without having an intoxicating liquor license under the laws of Minnesota, shall be guilty of a misdemeanor.

[1939 c. 138 s. 2] (3965-20)

340.03 UNLAWFUL TO SELL TO PERSONS UNDER 21 YEARS OF AGE.

It shall be unlawful to sell such liquor to any person under 21 years of age.

[1933 c. 116 s. 3] (3200-7)

340.04 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. In all counties of this state having a population of over 14,000, and less than 15,000, 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.

[1933 c. 116 s. 4; 1941 c. 502] (3200-8)

340.05 PENALTY. Any person violating the provisions of sections 340.01, 340.02, and 340.03 to 340.06 shall be guilty of a misdemeanor.

[1933 c. 116 s. 5] (3200-9)

340.06 NON-INTOXICATING MALT LIQUORS EXCLUDED. Sections 340.01, 340.02, and 340.03 to 340.06 shall not be construed as repealing any law or ordinance relating to the sale of intoxicating liquor. Nothing therein contained shall apply to non-intoxicating malt liquor containing less than one-half of one per cent of alcohol by volume.

[1933 c. 116 s. 6] (3200-10)

340.07 LIQUOR CONTROL; CONSTRUCTION OF TERMS. The terms "intoxicating liquor" and "liquor" when used in sections 340.07 to 340.40 mean and include ethyl alcohol and include distilled, fermented, spirituous, vinous, and malt beverages containing in excess of 3.2 per cent of alcohol by weight. The terms "sale" and "sell" and "sold" mean and include all barter and all manners or means of furnishing intoxicating liquor or liquors, as above described, in violation or evasion of law. "Off sale" means the sale of liquor in original packages in retail stores for consumption off or away from the premises where sold. "On sale" means the sale of liquor by the glass for consumption on the premises only. The term "wholesale" means and includes any sale for purposes of re-sale. The term "manufacturer" includes every person who, by any process of manufacture, fermenting, brewing, distilling,

refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquors for sale. The term "wholesaler" means any person engaged in the business of selling intoxicating liquor to retail dealers. The term "person" includes the meaning extended thereto by section 340.96.

The term "package" or "original package" means and includes any container or receptacle holding liquor, which container or receptacle is corked or sealed.

The term "municipality" means any city, village, or borough.

"Hotel" means and includes any establishment having a resident proprietor or manager, where, in consideration of payment therefor, food and lodging are regularly furnished to transients, which maintains for the use of its guests, in cities of the first class, not less than 50 guest rooms, in cities of the second class, not less than 25 guest rooms, in all other cities, villages, and boroughs, not less than ten guest rooms with bedding and other usual suitable and necessary furnishings in each room, which is provided at the main entrance with a suitable lobby, desk, and office for the registration of its guests on the ground floor, which employs an adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and has, as an integral part thereof, a dining room with appropriate facilities for seating not less than 30 guests at one time, where the general public are, in consideration of payment therefor, served with meals at tables.

"Exclusive liquor store" is an establishment used exclusively for the sale of intoxicating liquor, cigars, cigarettes, all forms of tobacco, non-intoxicating malt beverages and soft drinks at retail, either on sale or off sale, or both; provided, that lunches may be sold in a liquor store located in a village containing less than 500 inhabitants and situated in any county having a population according to the last federal census of not less than 34,000, nor more than 35,000, and having not less than 24, nor more than 25, full and fractional townships. It shall be under control of an individual owner or manager and, if located in municipalities other than cities of the first, second, and third class, it may be owned and operated by the municipality as the governing body thereof shall direct.

"Restaurant" means any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals, and, in cities of the first class, for seating not less than 50 guests at one time, and, in cities of the second and third class and villages of over 10,000 population and in such cities and villages having over 5,000, and not more than 10,000, population, where "on sale" is provided in restaurants in lieu of the establishment of exclusive liquor stores, for seating such number of guests, not less than 30, as the governing body of such municipality shall determine, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests, and the principal part of the business of which is the serving of foods.

The term "club" means and includes any corporation duly organized under the laws of the state for civic, fraternal, social, or business purposes or for intellectual improvement or for the promotion of sports, which shall have more than 50 members, and which shall, for more than a year, have owned, hired, or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents, or employees are paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

The term "medicines" means and includes only such potable liquids as are prescribed by licensed physicians and dentists for therapeutic purposes, and United States pharmacopeia and national formulary preparations, and preparations used for the mitigation of disease for external and internal purposes which are usually sold in drug stores and intended for therapeutic purposes and not for beverage purposes.

The term "general food stores" means any place of business carrying a stock of food supplies and primarily engaged in selling food and grocery supplies to the public.

[*Ex. 1934 c. 46 s. 1; 1937 c. 421 s. 1; 1939 c. 101 s. 1*] (3200-21)

340.08 LIQUOR CONTROL COMMISSIONER. The office of liquor control commissioner is hereby established, and the liquor control commissioner shall be appointed by the governor, by and with the consent and advice of the senate, whose term of office shall be four years from and after January first in the year in which such appointment is made. He shall be a citizen of this state and a resident thereof for not less than five years preceding his appointment and shall have no direct or indirect financial interest in the manufacture, transportation, or sale of intoxicating liquor or any malt or vinous beverages, intoxicating or non-intoxicating, or commercial or industrial alcohol.

The liquor control commissioner may be removed for cause by the governor, after hearing thereon, and it shall be the duty of the governor to remove him for any violation of sections 340.07 to 340.40. A record of the charges, proceedings, and findings thereon shall be filed in the office of the governor.

The salary of the liquor control commissioner shall be \$4,500 per year and he shall be entitled to his actual expenses in the performance of his duties.

He shall give a bond, with corporate surety, to the state in the sum of \$50,000, and the employees of the liquor control commissioner shall give bond to the state as may be required by him. The form of all such bonds shall be prescribed by the liquor control commissioner.

[*Ex. 1934 c. 46 s. 2*] (3200-22)

340.09 OFFICE ASSISTANTS. The principal office of the liquor control commissioner shall be in the city of Saint Paul. He may appoint a secretary and such inspectors, not to exceed ten, clerks and other assistants as he may require. All of the employees of the commissioner may be removed at his will. He shall set up an adequate system for the administration of sections 340.07 to 340.40, and have supervision over and power to regulate all forms of advertising and display of liquors. The liquor control commissioner shall have power to make all reasonable regulations to effect the object of sections 340.07 to 340.40 and to fix maximum prices, from time to time, on all liquor sold at wholesale. Such regulations shall include provisions for assuring purity of intoxicating liquor, the true statement of its contents, and the proper labeling thereof with regard to all forms of sale.

[*Ex. 1934 c. 46 s. 3*] (3200-23)

340.10 PUBLISHING REGULATIONS. All regulations made by the liquor control commissioner shall be printed in full in one issue of a legal newspaper published in the city of Saint Paul. Such regulations shall be effective five days after such publication, provided that regulations made within 30 days from the effective date of sections 340.07 to 340.40 shall be effective immediately upon publication. He shall annually, and at such other intervals as he deems expedient, publish in convenient form all regulations in force and furnish copies thereof to such persons as he deems advisable.

[*Ex. 1934 c. 46 s. 4*] (3200-24)

340.11 LICENSES. 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 manufacturers' and wholesalers' 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 not 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 the liquor control commissioner a fee of \$25.00 per annum. A duplicate of such license shall be posted in each car and for each duplicate of such license a fee of \$1.00 shall be paid. Such license so granted shall cover and

permit the sale of such intoxicating liquor in the state, or 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" licenses 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 340.07 to 340.40. Not more than one "on sale" license shall be issued in any city of the first class for every 1,500 inhabitants. Notwithstanding this 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 the 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, that city of the first class may continue to issue the number of "on sale" licenses which it issued in the year 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. "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 ten "on sale" licenses shall be issued in any city of the third class. Not more than five "on sale" licenses shall be issued in any city of the fourth class, or borough. Not more than ten "on sale" licenses shall be issued in any village of over 10,000 population. Not more than five "on sale" licenses shall be issued in any village of 5,000 to 10,000 population. Not more than four "on sale" licenses shall be issued in any village of 2,500 to 5,000 population. Not more than three "on sale" licenses shall be issued in any village of 500 to 2,500 population. Not more than two "on sale" licenses shall be issued in any village of less than 500 population. 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, ten "on sale" licenses may be issued. In any city of the fourth class, operating under a home rule charter, having a population in excess of 7,500, 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 money and credits, and having a population in excess of 23,000 according to the last federal census, the council may issue one "on sale" license for every 800 inhabitants or fraction thereof. 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 any city of the fourth class governed under a home rule charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, not more than three "off sale" licenses may be issued therein. 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, 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 40 sleeping rooms. In counties having an area of more than 5,000 square miles, if the liquor control commissioner approves, the governing body in cities of the third class may grant 15 such licenses, and in cities of the fourth class may issue nine 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, 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, 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.

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. Notwithstanding this 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 the 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, that city of the first class may continue to issue the number of "off sale" licenses which it 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:

(1) Any manufacturer shall pay to the state an annual license fee in the sum of \$2,500, 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;

(2) Any wholesaler, as herein defined, shall pay to the state an annual license fee in the sum of \$2,500, 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;

(3) The maximum license fee for an "off sale" license in 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 in 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.

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.

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 under this section shall be entitled to a new "on sale" license notwithstanding the provision herein contained.

[*Ex.* 1934 c. 46 s. 5; 1935 c. 303; 1937 c. 227; 1937 c. 387; 1937 c. 478; *Ex.* 1937 c. 74 s. 1; 1939 c. 154 s. 1; 1941 c. 4; 1941 c. 34; 1941 c. 359; 1941 c. 485] (3200-25)

Amended 11/13/50

340.12 APPLICATION FOR LICENSE. Every person desiring a license from the liquor control commissioner shall file with him a verified written application in the form to be prescribed by him. All applicants for manufacturer's and wholesaler's licenses to sell intoxicating liquor shall file with the liquor control commissioner a bond with corporate surety, to be approved by him, before granting such license, or, in lieu thereof, cash or United States government bonds in the sum of \$10,000, according to the character of the license, made payable to the State of Minnesota. All applicants for a license to sell intoxicating liquors on any railroad train or other common carrier shall file with the liquor control commissioner a

bond with corporate surety, to be approved by him before granting such license; or, in lieu thereof, cash or United States government bonds in the sum of \$1,000. All manufacturers and wholesalers of wines containing not more than 25 per cent of alcohol by weight, and manufacturers and wholesalers of beer containing more than 3.2 per cent of alcohol by weight, shall file with the liquor control commissioner a bond with corporate surety, to be approved by him before granting such license, or, in lieu thereof, cash or United States government bonds in the sum of \$5,000.

Every person desiring a license from a local governing body shall file with the clerk of the municipality a verified written application in the form to be prescribed by the liquor control commissioner, with such additional information as the local governing body shall require. An applicant for an "off sale" license shall file with the clerk of the proper municipality a bond with corporate surety, or, in lieu thereof, cash or United States bonds in a sum, not less than \$1,000, and not more than \$3,000, as the local governing body of such municipality shall determine, which bond shall be approved by such local governing body and the liquor control commissioner.

An applicant for an "on sale" license shall file with the clerk of the proper municipality a bond with corporate surety, or, in lieu thereof, cash or United States government bonds in a sum, not less than \$3,000, nor more than \$5,000, as the local governing body of such municipality shall determine, which bond shall be approved by such local governing body.

Bonds of manufacturers, wholesalers, and common carriers shall run to the State of Minnesota. Bonds of "on sale" and "off sale" retail dealers shall run to the municipality in which the license is issued. All such bonds shall be conditioned as follows:

As to manufacturers, wholesalers and common carriers:

- (1) That the licensee will obey the law relating to such licensed business;
- (2) That the licensee shall pay to the state when due all taxes, license fees, penalties, and other charges payable by him under any law relating to the manufacture, distribution, or sale of intoxicating liquor;
- (3) That in the event of any violation of the provisions of law, such bond shall be forfeited to the State of Minnesota as hereinafter provided.

As to "off sale" and "on sale" dealers:

- (1) That the licensee will obey the law relating to such licensed business;
- (2) That the licensee will pay to the municipality when due all taxes, license fees, penalties, and other charges provided by law;
- (3) That in the event of any violation of the provisions of any law relating to the retail "off sale" and retail "on sale" of intoxicating liquor, such bond shall be forfeited to the municipality in which such license was issued;
- (4) That the licensee will pay to the extent of the principal amount of such bond any damages for death or injury caused by or resulting from the violation of any provisions of law relating thereto, and in such cases recovery under this subdivision may be had from the surety on his bond; the amount specified in such bond is declared to be a penalty, the amount recoverable to be measured by the actual damages; provided, that in no case shall such surety be liable for any amount in excess of the penal amount of the bond.

All such bonds shall be for the benefit of the obligee and all persons suffering damages by reason of the breach of the conditions thereof. In the event of the forfeiture of any such bond for violation of law, the district court of the county wherein such licensed business was carried on may forfeit the penal sum of the bond, or any part thereof, to the state or municipality named as obligee in the bond.

[*Ex. 1934 c. 46 s. 6*] (3200-26)

340.13 REVOCATION OF LICENSES. Any license issued under the provisions of sections 340.07 to 340.40 may be revoked by the authority issuing such license for violation of any provision thereof. "Off sale" licenses may be revoked by the governing body of the municipality after hearing, or revoked by the liquor control commissioner after hearing. No manufacturer or wholesaler shall, directly or indirectly, own or control or have any financial interest in any retail business selling intoxicating liquor, but this restriction shall not be construed to deny such person the right to use or have his property rented for such purposes in any case where the manufacturer or wholesaler was a bona fide owner of the premises prior to November 1, 1933. No manufacturer or wholesaler shall exact or require, by contract, understanding, or otherwise, any licensed retailer to handle or sell only

Am 1943 - 301-3

the products of any particular manufacturer or wholesaler. No license shall be granted to any person who opens a new drug store after the passage of sections 340.07 to 340.40 until such person shall have operated such store continuously for a period of two years, or purchased a drug store that shall have been in continuous operation for two years. All licenses issued for any one municipality, except manufacturer's and wholesaler's licenses, shall expire at the same time. No more than one retailer's license shall be directly or indirectly issued to any one person or for any one place, in each municipality. No retailer's "on sale" or retailer's "off sale" license shall be directly or indirectly issued with respect to any place in any municipality maintaining an exclusive liquor store nor to any person or for any place for which a license of another class has been granted. No "on sale" or "off sale" license shall be effective beyond the compact and contiguous space named therein for which the same was granted, except that an "on sale" license granted for sales in the dining room of any hotel in cities of the first and second class and villages of over 10,000 may permit sales of liquor with meals in additional dining rooms open to the public and specified in the license where meals are regularly served to guests therein. No license shall be issued for premises located within the areas restricted against commercial use through zoning ordinances or other proceedings or legal processes regularly had for that purpose, except that licenses may be issued for sale in restaurants in premises which have been restricted against commercial uses since the establishment of such restaurants therein; and no license shall be issued contrary to the provisions of any charter, ordinance, or any special law restricting areas within which intoxicating liquor may be sold. No license shall be issued for premises or places in which the sale or use thereof has been prohibited by sections 340.72 to 340.90. No license shall be issued to any person in connection with the premises to another to whom no license could be issued under the provisions of sections 340.07 to 340.40, except as otherwise provided therein. This provision shall not prevent the granting of a license to a proper lessee by reason of the fact that he shall lease premises of a minor, non-citizen, or a person who has been convicted of a crime other than a violation of sections 340.07 to 340.40. No more than one license shall be issued to any person in any municipality except as specifically provided in sections 340.07 to 340.40. No "off sale" license shall be issued for any place where non-intoxicating malt beverages shall be sold for consumption on the premises. A license shall be non-transferable without the consent of the authority issuing it, and posted in a conspicuous place in the premises for which it is issued. No license shall be effective until a permit shall be issued to the licensee under the laws of the United States if such a permit be required under such laws. No license shall be issued to other than a citizen of the United States over 21 years of age of good moral character and repute, nor to any person hereafter convicted of any wilful violation of any law of the United States or this state or of any local ordinance with regard to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor, nor to any person whose license under sections 340.07 to 340.40 shall be revoked for any wilful violation of any such laws or ordinances.

The legislature expressly reserves the right to limit or diminish the number of licenses, to limit the profits of any authorized manufacturer, wholesaler, or retailer as a condition to granting or continuing a license, and to regulate, limit, or prohibit the issuance or sale of capital stock in any licensee as a condition to granting a license.

[*Ex. 1934 c. 46 s. 7; 1935 c. 306*] (3200-27)

340.14 REGULATIONS. Subdivision 1. **Hours of sale.** 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 of any day. 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 sale" may be made until ten o'clock p. m. 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 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. **Places where not to be sold.** 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, nor 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.

[*Ex. 1934 c. 46 s. 8; 1939 c. 101 s. 2; 1939 c. 429; 1941 c. 415; 1941 c. 503*] (3200-28)

340.141 REFILLING OF 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.

[1941 c. 16 s. 1]

340.142 DILUTING OR TAMPERING WITH CONTENTS OF ORIGINAL PACKAGE. 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 the 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 the original package or bottle has been diluted, changed, or tampered with.

[1941 c. 16 s. 2]

340.143 VIOLATION OF SECTIONS 340.141 OR 340.142 A GROSS MISDEMEANOR. Any person who violates the provisions of sections 340.141 or 340.142 shall be guilty of a gross misdemeanor.

[1941 c. 16 s. 3]

340.15 COMMISSIONER TO ASSIST PUBLIC EDUCATION RESPECTING EFFECTS OF ALCOHOL; REGULATING ADVERTISING. The liquor control commissioner shall assist the state department of education to prepare a course of instruction relating to the effects of alcohol upon the human system, upon character and upon society. Such course of instruction shall be used in all public schools of the state. The unrestricted advertising of intoxicating liquor is hereby declared to be contrary to public policy. Reasonable rules and regulations restricting advertising to prevent it from counteracting temperance education shall be made by the liquor control commissioner.

[*Ex. 1934 c. 46 s. 9*] (3200-29)

340.16 LICENSES NOT TO ISSUE IN PLACES VOTING AGAINST EIGHTEENTH AMENDMENT; LOCAL REGULATIONS. Until such question shall have been otherwise determined by the electors, no license shall be issued in any municipality in any county in which the majority of the electors voting at the September 12, 1933, election provided for by Laws 1933, Chapter 214, voted for delegates "against repeal." Any city or village now or hereafter having not less than 600 inhabitants in any county having not more than 66, and not less than 55, full or fractional congressional townships, and having a population of not more than 60,000, and not less than 45,000, may hold an election on the question of establishing a municipally-owned exclusive liquor store, following as nearly as possible the procedure prescribed in sections 340.23 and 340.24, except that the propositions on the ballot to be used in such election shall be "for municipal liquor store" and

"against municipal liquor store." If a majority of all the ballots at such election upon the question of establishing a municipally-owned exclusive liquor store shall be "for municipal liquor store," the council may, regardless of the outcome of any election held under the provisions of sections 340.25 to 340.40, establish such a store and sell intoxicating liquor therein in the same manner as in other counties of the state; but, if a majority of all the ballots cast on the question shall be "against municipal liquor store," no intoxicating liquor shall be sold in such city or village until the establishment of a municipal liquor store is authorized at a subsequent election at which the question is again in like manner submitted. Any city in any such county may hold such an election by following as nearly as possible the procedure prescribed in sections 340.22 to 340.24. Any local authority shall have power to impose further restrictions and regulations upon the sale and possession of intoxicating liquor within its limits.

[*Ex. 1934 c. 46 s. 10; 1939 c. 395*] (3200-30)

340.17 SACRAMENTAL WINE; LICENSE OF SALE. The provisions of sections 340.07 to 340.40 shall not be deemed to prohibit the importation and introduction into the state or purchase within the state by any regularly appointed or ordained rabbi, priest, minister, or pastor of any church or established religious organization upon the written certificate of such rabbi, priest, minister, or pastor that the amount so sold to him is reasonably required for sacramental purposes in religious exercises and will be used only for those purposes. Such purchasers may supply the wine so purchased to individual worshippers of religious organizations and congregations who practice religious rites and ceremonies in their homes in which wine is used by virtue of the established tenets of such organizations.

Licenses for such purposes shall be issued by the liquor control commissioner upon payment of a license fee of \$10.00 per annum and the giving of a penal bond in the sum of \$1,000 conditioned for compliance with this section.

[*Ex. 1934 c. 46 s. 11*] (3200-31)

340.18 SALE FOR MEDICINAL, MECHANICAL AND SCIENTIFIC PURPOSES. The provisions of sections 340.07 to 340.40 shall not apply to medicines nor to industrial alcohol designed for mechanical, chemical, scientific, pharmaceutical, or industrial purposes nor to compounds or preparations containing alcohol, if such medicines, compounds, or preparations are not potable as a beverage.

It shall be lawful for any duly licensed and registered pharmacist or druggist within this state to make sales of intoxicating liquor for medicinal purposes upon bona fide prescriptions by a physician, dentist, or veterinarian, written in ink, without having obtained an "off sale" license. Such prescription shall state the name and address of the person for whom the same is prescribed, the kind and quantity of liquor, be signed in ink by the physician, dentist, or veterinarian issuing the same, and bear the date of its issuance and delivery. No more than one quart of liquor may be sold upon any one prescription, and no prescription shall be refilled more than once, nor after the expiration of one month from the date of its issuance and delivery. No physician, dentist, or veterinarian shall prescribe for or issue or deliver, to any person, nor shall any person receive, more than one prescription for intoxicating liquor within any period of ten days. The container of intoxicating liquor so sold shall bear the prescription number.

Every prescription upon which any sale of intoxicating liquor is made, as herein provided, shall, at the time of such sale, be taken from the purchaser of the intoxicating liquor by the seller thereof, and by such seller canceled in writing in ink across the face of such prescription over his signature, the words: "Canceled this day of, 19.....," stating the date, and such prescription shall be kept by the seller until filed by him with the liquor control commissioner within 30 days after such prescription has been issued.

Such pharmacist or druggist must first obtain a special permit from the liquor control commissioner, which permit shall be issued annually at a cost of \$5.00. The permit shall be revoked by the commissioner for any violations of sections 340.07 to 340.40. Any person applying for or obtaining a prescription under sections 340.07 to 340.40 must give his own true name to the physician, dentist, or veterinarian, and it shall be unlawful for such physician, dentist, or veterinarian to knowingly insert a false name in such prescription.

[*Ex. 1934 c. 46 s. 12; 1937 c. 418 s. 1*] (3200-32)

340.19 REMOVAL OF OFFICERS; LICENSES REVOKED; BONDS FORFEITED; VIOLATIONS. (1) The failure on the part of any duly constituted

public officer, charged by law with the enforcement of sections 340.07 to 340.40 shall constitute non-feasance in office and shall be valid ground for the removal of such officer.

(2) When any licensee shall wilfully violate the provisions of sections 340.07 to 340.40 his license shall be immediately revoked and his bond forfeited, and no license of any class shall for a term of five years thereafter be issued to the same person or to any person who at the time of the violation owns any interest, whether as holder of more than five per cent of the capital stock of a corporation licensee, as partner, or otherwise, in the premises or in the business conducted thereon, or to any corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested.

(3) Whoever, in violation of the provisions of sections 340.07 to 340.40, shall manufacture intoxicating liquor for the purposes of sale shall be guilty of a gross misdemeanor.

(4) Whoever, in violation of the provisions of sections 340.07 to 340.40, shall transport or import into the state liquor for the purposes of sale shall be guilty of a gross misdemeanor.

(5) Whoever shall sell directly or indirectly any intoxicating liquor without having a license for such sale shall be guilty of a gross misdemeanor.

(6) Whoever shall violate any of the provisions of sections 340.07 to 340.40 as to licensing, or any of the regulatory provisions pertaining thereto, as herein provided, shall be guilty of a misdemeanor.

(7) The liquor control commissioner shall have the power to institute proceedings to cancel or revoke the licensing of any pharmacist or druggist as such pharmacist or druggist who shall violate the provisions of sections 340.07 to 340.40.

[*Ex. 1934 c. 46 s. 13; 1939 c. 101 s. 3; 1939 c. 248*] (3200-33)

340.20 LOCAL OPTION ELECTIONS IN VILLAGES. The recorder of any village of this state shall, upon the petition of ten legal voters of such village, filed with him at least 15 days before the annual village election thereof, give notice at the same time and in the same manner as the notice of such election that the question of granting license in such village for the sale of intoxicating liquor will be submitted for determination at such election. At such election, when so petitioned for, the question shall be voted upon by a separate ballot, the terms of which shall be either "for license" or "against license," which ballot shall be deposited in a separate ballot box to be provided in each voting precinct and the result of such voting shall be duly canvassed, certified, and returned in the same manner and at the same time as the other facts and returns of the election.

[*Ex. 1934 c. 46 s. 15*] (3200-35)

340.21 RESULT OF ELECTION. If a majority of all the ballots cast upon such question at such election shall be "for license" the village council of the village may grant license for the sale of intoxicating liquors for the ensuing license year, but if such majority shall be "against license" then no such license shall be granted and such vote shall remain in force until reversed at a subsequent annual election at which the question of license is again in like manner submitted.

[*Ex. 1934 c. 46 s. 16*] (3200-36)

340.22 LOCAL OPTION ELECTION IN CITIES OF FOURTH CLASS ON PETITION. The clerk or recorder of any city of the fourth class, whether the same is incorporated under a special law or the general laws or under a home rule charter, on petition of ten per cent and in no case less than 25 of the legal voters, such percentage to be determined by the number of votes cast at the last city election, filed with him at least 20 days before the regular city election, shall give notice at the same time and in the same manner as the notice of such city election that the question of granting license in such city for the sale of intoxicating liquor will be submitted for determination at such election.

[*Ex. 1934 c. 46 s. 17*] (3200-37)

340.23 BALLOTS; MARKING AND CASTING; CANVASS; RESULT; MANUFACTURE; PRESCRIPTIONS. At such election, when so petitioned for, the question shall be voted on by separate ballot provided by the city clerk or city recorder, which ballot shall be known as "license ballot." The ballot shall have printed thereon the words "for license" and "against license," and each qualified elector voting upon the question shall place a cross mark (X) in the place opposite the words "for license" or in the place opposite the words "against license," which ballot shall be deposited in a separate ballot box to be provided in each voting precinct, and such

votes shall be counted for or against the question in accordance with the expressed will of the elector, as provided by the election laws of this state. The ballots so cast shall be duly canvassed, returned, and certified according to the law governing such city elections and if a majority of the votes cast upon the question shall be in favor of license then license for the sale of intoxicating liquor may be granted, but if such majority shall be against license then no license shall be granted and no liquor shall be sold in any quantity, either wholesale or retail, in any such city, until such vote shall be reversed at a subsequent election at which the question of license is again in like manner submitted; provided, that intoxicating liquor manufactured therein may be sold to be consumed outside of the city and that any duly licensed and practicing physician, dentist, or veterinarian may prescribe, or any duly licensed druggist or pharmacist actually carrying on business as such, may, in good faith as such druggist or pharmacist, dispense intoxicating liquor under the conditions and restrictions and subject to the penalties prescribed by law.

[*Ex. 1934 c. 46 s. 18*] (3200-38)

340.24 CHARTER AND ORDINANCE PROVISIONS CONTINUED; SUSPENSION. All charter provisions and ordinances of any such city authorizing or providing for a vote by the electors on the question of either license for or the prohibition of the sale of intoxicating liquor therein, or prohibiting such sale or the granting of license therefor in consequence of any such vote had on these questions, shall continue and remain in full force and effect until an election shall have been held and determined under the provisions of sections 340.07 to 340.40 in any such city; and all such provisions, ordinances and prohibitions shall be and remain suspended after the election shall have been held and determined for so long a time as sections 340.07 to 340.40 remain in force, and no longer.

[*Ex. 1934 c. 46 s. 19*] (3200-39)

340.25 LOCAL OPTION ELECTIONS IN COUNTIES; PETITION. Sections 340.25 to 340.40 shall not apply to any county in the state in which is located any city of the first class. When there shall be presented to the auditor of any county within this state a petition signed by any number of the qualified voters thereof equal to or exceeding 25 per cent of the total number of votes cast therein for governor at the last preceding general election, praying that a special election be held in the county to determine whether the sale of intoxicating liquors shall be prohibited therein, the auditor shall forthwith file such petition in his office, and thereafter keep and retain the same as a part of the records and files thereof, and the petition so presented and filed shall be prima facie evidence of the facts therein stated. Every such petition shall be substantially in the form hereinafter provided, and every such petitioner shall, opposite his signature thereto, specify his residence, giving the street and number, if any, and no voter shall sign his name to or withdraw from any such petition after the same has been so presented to the county auditor. The petition shall also contain a written or printed oath to the effect that the petitioner is a legal voter of the county and knows the contents and purpose of the petition and signed the name of his own free will, and each petitioner shall, at the time of signing, be sworn as aforesaid. No signature shall be valid unless the date of the verification of the signer is less than 90 days before the date of its presentation to the county auditor. The petition when so presented may consist of separate petitions fastened together as one document, and containing in the aggregate the number of voters hereinbefore specified.

[*Ex. 1934 c. 46 s. 20*] (3200-40)

340.26 SPECIAL ELECTION. The auditor shall, upon the filing of the petition in his office, forthwith make and file therein an order bearing his signature and his official seal directing the submission to the voters of the county of the question whether the sale of intoxicating liquor shall be prohibited therein, at a special election for such purpose, to be held on a Monday occurring not less than 40, nor more than 50, days after such filing of the petition. If the petition is presented to the auditor within 60 days prior to any primary or general election in the county or any regular town or village election therein, then, and in such event, the election to be held hereunder upon the presentation of such petition shall be fixed for a Monday not less than 30, nor more than 40, days subsequent to the primary, general, or regular town or village election. The election shall not be held on the same day as any other regular municipal election. The time during which the holding of such election may be postponed by any obstacle shall not be a part of the time within which the election is hereby required to be held. No election in any such county

MINNESOTA STATUTES 1941

2457

INTOXICATING LIQUORS 340.30

under the provisions of sections 40.07 to 40.40 shall be ordered or held within three years subsequent to a previous election thereunder in such county, unless such previous election shall have been set aside or adjudged invalid.

[*Ex. 1934 c. 46 s. 21*] (3200-41)

340.27 NOTICE OF SPECIAL ELECTION. The auditor shall, immediately upon such filing of the petition and affidavits and his order, make and file in his office a notice of such election, bearing his signature and official seal, and thereupon and at least 25 days prior to the time fixed for the holding of the election serve a duplicate copy of the notice personally or by registered mail upon the clerk or recorder of each village, city, or town within the county, and forthwith make and file in his office an affidavit showing the time and manner of such service, whereupon, each clerk or recorder shall, at least 15 days before the election, cause to be posted in three conspicuous places in each election district of his city, village, or town, a notice of the election, and one copy of each notice so posted, together with proof of such posting thereof by affidavit of the person posting the same, shall be forthwith filed by each clerk and recorder in his respective office. Failure for any cause to give any of the notices herein required or to make or file proof thereof shall not be held to invalidate any election held hereunder.

[*Ex. 1934 c. 46 s. 22*] (3200-42)

340.28 JUDGES AND CLERKS OF ELECTION. The members of the town board shall be judges of such election in the election district in which they, respectively, reside unless all are of like belief, either in favor of prohibiting the sale of intoxicating liquors in the county or against the prohibition thereof, in which case not more than two, determined by lot unless otherwise agreed upon, shall act as judges. No member of such board shall be compelled to serve as judge, and if any decline they shall notify the town board in time to fill the place by appointment.

The council in every municipality, at least ten days before such election, shall appoint to be judges thereof three qualified voters of each district therein, at least one of whom shall be known to be in favor of prohibiting the sale of intoxicating liquors in the county, and one shall be known to be against prohibiting such sale. In villages having but one district and not included in any town district, the members of the council shall be judges, subject to the qualifications and restrictions provided for town boards in like cases.

The judges of each district shall appoint two qualified voters therein as clerks except that in towns, the town clerk, and in villages having but one district and not included in any town district, the village clerk or recorder, shall serve as one of the clerks in the district where he resides. No more than two judges and one clerk in any district shall be of like belief, either in favor of prohibiting the sale of intoxicating liquors in the county or against prohibiting such sale, and no person shall be eligible as judge or clerk unless he can read, write, or speak the English language understandingly. No additional judge or clerks to be known as ballot judge or clerks shall be appointed. When for any reason it becomes necessary to appoint one or more judges in order to provide three judges for each election district, the town board or council shall, at least five days before the time fixed for the holding of the election, appoint the number required. Vacancies in the office of judge or clerk by reason of failure to appear at the time and place of the election or otherwise shall be filled as provided by law for general elections in this state, subject to the qualifications and restrictions hereinbefore prescribed.

[*Ex. 1934 c. 46 s. 23*] (3200-43)

340.29 CHALLENGE TO VOTERS. The judges shall allow one voter, known to be in favor of prohibiting the sale of intoxicating liquor in such county, and one known to be against prohibiting such sale, to be in the room where the election is held, to act as challengers of voters. Such challengers shall be subject to the provisions of law relating to challengers in case of general elections.

[*Ex. 1934 c. 46 s. 24*] (3200-44)

340.30 BALLOTS. The ballots of the election shall be printed in the following form, words, and characters: Shall the sale of liquor be prohibited:

Yes	
No	

The voter shall mark a cross in one of the above squares to express his choice.

Such ballot shall take the place of the official ballot required for general elections and, together with a sufficient number of blank forms for lists and affidavits, and such other blanks as are required in preparing for and conducting such election, be prepared under the direction of the county auditor and with such forms and blanks by him delivered to the proper clerks or boards in sufficient quantities and in time to enable them to comply with the provisions of sections 340.07 to 340.40, all as provided by law in case of general elections for county officers.

[*Ex. 1934 c. 46 s. 25*] (3200-45)

340.31 LAWS APPLICABLE; OATH TO VOTERS. In all such elections, except as to matters otherwise provided for in sections 340.07 to 340.40, all provisions of law governing general elections for county officers in this state, including penal provisions and provisions relating to compensation of officials, and to payment of expenses incurred in preparing for and conducting elections, shall apply and govern, as far as applicable; provided, that the compensation of the members of the county canvassing board shall be the same as the compensation of the members of the county canvassing board provided for by the election laws. The ballots shall be given to electors, marked, cast, counted, canvassed, returned, and preserved, and returns made and delivered to the auditor, all substantially in accordance with the law governing general elections for county officers. It shall not be necessary to make new election districts or to make any new register of voters for any election held pursuant to sections 340.07 to 340.40 prior thereto, but the judges of such election in each district shall take from the custodian thereof and use at such election the register of voters used in the district at the general election next preceding the election so as to be held as herein provided. If any person shall offer to vote in any such districts whose name does not appear on such registration list, his name shall be entered thereon upon his taking such oath, answering such questions, and complying with such other provisions as shall be required by the then existing laws regulating the registration of voters. After his name is so entered and before he receives his ballot, the judges shall administer the following oath:

"You do swear that you are a citizen of the United States; that you are 21 years of age, and have been a resident of this state for six months immediately preceding this election; that you are a qualified voter in this district; and that you have not voted in this election."

Upon taking this oath if the judges are satisfied he is a qualified voter, he shall be allowed to vote. If such person refuses to take this oath, he shall not be allowed to vote and his name shall be removed from the register.

[*Ex. 1934 c. 46 s. 26*] (3200-46)

340.32 COUNTY CANVASSING BOARD; CANVASS AND CERTIFICATION OF RESULT. The auditor, the chairman of the county board, and two qualified electors of the county, appointed by the auditor, one known to be in favor of prohibiting the sale of intoxicating liquors, in the county, and one known to be against prohibiting such sale, shall constitute the county canvassing board, any three of whom, at least one being known to be in favor of prohibiting and one being known to be against prohibiting such sale, being present and sworn, shall have the power to act; and it shall be the duty of the auditor to appoint electors willing to act on the canvassing board as soon as practicable and within five days after the day of the election. Such board, as soon as practicable and within ten days after the election, shall meet at the auditor's office and there publicly canvass the returns made to the auditor. Such canvass shall, forthwith and within 15 days after the election, be completed and thereupon the board shall certify the result of the canvass and forthwith file its certificate thereof, duly signed by the members of the board so acting, with the auditor of the county.

[*Ex. 1934 c. 46 s. 27*] (3200-47)

340.33 CONTEST OF ELECTION; MANDAMUS. Any voter may contest the validity of such election; as provided by sections 208.07 to 208.09; provided, that it shall be the duty of the county attorney of such county to appoint in defense of the validity of such election in any such contest in his county and that any voter of the county may appear at any time before trial and defend as contestee therein by serving written notice of his appearance, signed by himself or his attorney, on the contestant or his attorney, as provided by law for the service of answers in civil actions. A writ of mandamus shall issue on information of any legal voter of the county to compel the performance of any duty enjoined upon any officer by sections 340.07 to 340.40 and all the provisions of chapter 586 relating to mandamus proceed-

ings hereunder shall apply to any proceedings hereunder as far as the same may be applicable.

[*Ex. 1934 c. 46 s. 28*] (3200-48)

340.34 RESULT OF ELECTION; ACCRUED OFFENSES. If a majority of the votes at any such election be cast in favor of prohibiting the sale of intoxicating liquors, then, and in that event, and not otherwise, from and after the time of the filing of the certificate of the county canvassing board, as herein prescribed, the operation and enforcement of every statute and of every municipal charter now existing or hereafter enacted or adopted, so far as the same shall make the granting of licenses for the sale of intoxicating liquors or the sale or other disposition thereof, optional with the voters of towns, villages, or cities, or any thereof, or in any manner authorize or relate to the granting or issuance of any such license, shall become and be wholly suspended in the county, and in each town, village, and city therein, and the selling or storing or having in possession for sale, or soliciting, receiving, or taking any orders for, intoxicating liquors in any quantity, and the keeping of any place, structure, or vehicle, transient or permanent, where such liquor shall be sold, or stored or kept for sale, in any quantity, in any place in such county, shall be illegal and prohibited, except as hereinafter otherwise expressly provided, and except that licensees may sell intoxicating liquors until such time as their licenses shall be annulled under the provisions of sections 340.07 to 340.40. Six months from and after the time of the filing of the certificate of the county canvassing board, as herein prescribed, the operation and enforcement, within the county and in each town, village, and city therein, of every statute, municipal charter and ordinance, now existing or hereafter enacted or adopted, so far as the same shall relate to the sale of intoxicating liquor by licensees, or the conduct or regulation of licensed public drinking places, shall likewise become and be suspended. Each such suspension of the operation and enforcement of every such statute, charter, and ordinance, and such prohibition shall continue until another election hereunder shall be held in the county, at which the majority of the votes cast shall be against prohibiting the sale of intoxicating liquors therein, whereupon such suspension and such prohibition shall cease, and all of the then existing statutes, municipal charters and ordinances be thereafter operative and enforceable within the county until the operation there shall be again suspended and such prohibition again put in force, under and pursuant to the terms of sections 340.07 to 340.40. No suspension of the operation or enforcement of any statute, charter, or ordinance under sections 340.07 to 340.40 shall in any manner prevent or affect the prosecution or enforcement of any offense committed or any penalty incurred at a time prior to such suspension or when same was not in force.

[*Ex. 1934 c. 46 s. 29*] (3200-49)

340.35 LICENSES WITHHELD AND SUSPENDED; REFUND. During the period of such prohibition and the suspension of the statutes and municipal charters first mentioned in section 340.34, it shall be unlawful for any licensing board or council within the county to grant any license for the sale of intoxicating liquors therein. Every such license attempted to be granted in the county during such period of suspension or prohibition shall be null and void. All licenses for the sale of intoxicating liquors granted in the county after the passage of sections 340.07 to 340.40 for a term which shall not have expired, shall, six months from and after such suspension of the statutes or charter pursuant to which the same was granted, forthwith be annulled and the holder thereof be liable for the sale of any liquor made by him thereafter, the same as though no license had ever been issued to him. The county or municipality issuing such license shall refund to the holder thereof the portion of the fees received and retained by it for such license corresponding to the unexpired term thereof, which shall thereupon be charged in its due proportion to the fund to which it shall have previously been credited, appropriated, or applied.

[*Ex. 1934 c. 46 s. 30*] (3200-50)

340.36 OFFENSES IN PROHIBITION TERRITORY; UNEXPIRED LICENSES; LIQUOR MANUFACTURED AND STORED; PRESCRIPTIONS BY PHYSICIANS. Subdivision 1. **Misdemeanors.** Every person, company, corporation, club, association, or society, directly or indirectly, either personally or by clerk, agent, or employee, who shall sell or store or have in possession for sale, or shall solicit, receive, or take any orders for intoxicating liquor, in any quantity, or who shall keep any place, structure, or vehicle, transient or permanent, where any shall be

sold or kept for sale, in any quantity, in any county wherein the operation or enforcement of statutes, charters, or ordinances shall be suspended or such prohibition be in force, as in sections 340.07 to 340.40 provided, in violation of the provisions of sections 340.07 to 340.40 shall be guilty of a misdemeanor; and, upon conviction thereof, punished by a fine of not less than \$50.00 and the cost of prosecution and be imprisoned in the county jail for not less than 30 days; provided, that the foregoing provisions in this section contained shall not apply to the keeper of any licensed drinking place until his license shall be annulled, as hereinbefore prescribed; provided, that intoxicating liquor manufactured in the county may be lawfully kept or stored at the place of such manufacture or any place in the county where necessary in due course of transportation from the place of manufacture; and, provided, that any duly licensed and practicing physician or veterinarian may prescribe, or any duly licensed pharmacist, actually carrying on business as such, may, in good faith as such druggist or pharmacist, dispense, or keep for the purpose of dispensing, intoxicating liquor under the conditions and restrictions and subject to the penalties prescribed in such cases by law.

Subdivision 2. Perjury; forgery; gross misdemeanors. Whoever, in making any affidavit accompanying the petition mentioned in section 340.07, shall knowingly, wilfully, and corruptly swear falsely thereto, shall be deemed guilty of perjury; and, upon conviction thereof, punished accordingly. Whoever forges the signature of any person upon any such petition shall be guilty of forgery; and, upon conviction thereof, punished accordingly. Any person who, not being at the time a qualified voter of the county, shall, with unlawful intent, sign such petition or vote at any such election and any person who shall induce another, knowing that he is not a qualified voter of the county, to sign such petition or vote at such election, or who shall directly or indirectly present or cause to be presented to the auditor any such petition, knowing or having reason to believe that any signer thereof is not a qualified voter, shall be guilty of a gross misdemeanor. Any public officer or judge or clerk of election who shall wilfully fail, neglect, or refuse to perform any duty imposed by sections 340.07 to 340.40 shall be guilty of a gross misdemeanor.

[*Ex. 1934 c. 46 s. 31*] (3200-51)

340.37 CERTIFICATE OF RESULT OF ELECTION AS EVIDENCE IN PLEADINGS. The certificate of the county canvassing board, filed as provided by sections 340.07 to 340.40, or a duly certified copy thereof, shall be prima facie evidence in all courts of this state of the facts therein set forth and that the election was petitioned for, ordered, held, and conducted, all as provided by law. In any complaint, information, or indictment for the violation of any of the provisions of sections 340.07 to 340.40, it shall not be necessary to set forth the facts showing that the required number of voters in the county petitioned for the election or that the election was held or that a majority voted in favor of prohibiting the sale of intoxicating liquor, as herein provided; but it shall be sufficient to allege that the act complained of was then and there prohibited and unlawful.

[*Ex. 1934 c. 46 s. 32*] (3200-52)

340.38 ARREST OF VIOLATORS; COMPLAINTS AND PROSECUTIONS. Every sheriff, constable, marshal, and policeman shall summarily arrest any person found violating any provisions of sections 340.07 to 340.40 and the president or mayor of every municipality shall make complaint of every known violation thereof. Every county attorney shall prosecute all cases arising thereunder within his county.

[*Ex. 1934 c. 46 s. 33*] (3200-53)

340.39 STATUTES AND ORDINANCES, WHEN NOT OPERATIVE. Except as provided in sections 340.07 to 340.40, all statutes and municipal charters and ordinances operative within the county shall be and remain in full force and effect, so far as the same in any way relate to intoxicating liquors, and keeping of unlicensed drinking places, or the sale or disposition of such liquors to any person or class of persons or any penalty or liability therefor.

[*Ex. 1934 c. 46 s. 34*] (3200-54)

340.40 PETITION FOR ELECTION; ORDER; NOTICE; CERTIFICATE. The petition for election provided for in sections 340.07 to 340.40, the order for such election, the notice thereof, to be made and filed by the auditor and thereupon served upon the clerk or recorder, and notice of such election to be prepared and posted by such clerk or recorder, and the certificate of the county canvassing board of the returns thereof, may be in the following forms, respectively:

MINNESOTA STATUTES 1941

2461

INTOXICATING LIQUORS 340.40

PETITION

To the auditor of county, Minnesota:

The undersigned legal voters of the county pray that an election be held in the county to determine whether the sale of intoxicating liquor shall be prohibited therein, and we and each of us do solemnly swear that we are legal voters of the county and know the contents and purpose of this petition, and signed the same of our own free will.

IN CITIES

Name of Signer
St. Residence No.

ORDER

State of Minnesota,
County of } ss.

A petition having been filed with the undersigned auditor of the county, signed by a number of qualified electors of the county equal to more than 25 per cent of the total number of votes cast in the county for governor at the last preceding general election, praying that an election be held in the county to determine whether the sale of intoxicating liquors shall be prohibited therein.

IT IS HEREBY ORDERED, that a special election for such purposes be held in the various election districts in the county on the day of, 19....., and that notice thereof be given as provided by law.

Dated the day of, 19.....

County Auditor

AUDITOR'S NOTICE

To the (clerk or recorder) of the (town, village or city) of in County, Minnesota:

YOU ARE HEREBY NOTIFIED, that a special election will be held in the several election districts in county on the day of, 19....., for the purpose of voting upon the question whether the sale of intoxicating liquors shall be prohibited within the county.

County Auditor

NOTICE TO BE POSTED

Election Notice

To the legal voters of the (town, village or city) of in the county of, Minnesota:

NOTICE IS HEREBY GIVEN, that a special election will be held at (insert location of polling place) (Insert "in the town of" or "in the village of" or "in the election district in the ward of the city of" as may be required), in the county, between the hours of o'clock in the forenoon and o'clock in the afternoon, on the day of, 19....., for the purpose of voting upon the question whether the sale of intoxicating liquors shall be prohibited within county.

Clerk (or recorder)

CERTIFICATE

State of Minnesota,
County of } ss.

We, the undersigned, constituting the board of canvassers for the county, do hereby certify that we find and have so determined that, at the special election held in the county on the day of, 19....., on the question whether the sale of intoxicating liquors should be prohibited in

MINNESOTA STATUTES 1941

340.41 INTOXICATING LIQUORS

2462

the county, votes were cast in favor of prohibiting such sale and votes were cast against prohibiting such sale, and that a majority of votes at the election was (in favor of or against according to the fact prohibiting such sale), (or that the result of the election was a tie, if such was the fact).

Dated this day of, 19.....

.....
.....
.....

County canvassers.

[Ex. 1934 c. 46 s. 36] (3200-56)

340.41 LIQUOR STORES MAY SELL FOOD, TOBACCO, AND SOFT DRINKS. In villages and cities of the fourth class situated in any county containing a city of the first class and having a population of more than 450,000, the sale of food, cigars, cigarettes, all forms of tobacco, non-intoxicating malt beverages and soft drinks in any exclusive liquor store having an "on sale" license, may be permitted by the governing body of such municipality.

[1937 c. 393 s. 1] (3200-58a)

340.42 RESTRICTED TERRITORY IN CERTAIN CITIES. The governing body of any city of the first class, including any such city operating under a charter adopted pursuant to the provisions of the Constitution of the State of Minnesota, Article 4, Section 36, which city contains within its corporate limits any territory in which sales of intoxicating liquor have been heretofore prohibited by any special law of this state, is hereby authorized and empowered to grant or refuse licenses to sell intoxicating liquors at any place within the corporate limits of any such city notwithstanding any provision to the contrary in any city charter or law of this state.

[Ex. 1934 c. 74 s. 1] (3200-58½)

340.43 DISTANCE FROM EDUCATIONAL INSTITUTIONS. No licenses shall be issued to any one within a radius of one-half mile from the limits of the college of agriculture, the University of Minnesota, nor to any one within a radius of 1,500 feet of any academy, college, or university of higher education, located within any such territory wherein sales of intoxicating liquors have been heretofore prohibited by any special law or laws of this state.

[Ex. 1934 c. 74 s. 2] (3200-58½a)

340.44 LIQUOR TAX ACT; DEFINITIONS. For the purpose of sections 340.44 to 340.56:

- (1) "Brewer" means any person who manufactures malt liquor containing more than one-half of one per cent of alcohol by volume;
- (2) "Wholesaler" means any person who sells such malt liquor and intoxicating liquors to retail dealers;
- (3) "Retailer" means any person who sells such malt liquor and intoxicating liquors to a consumer;
- (4) "Commissioner" means the liquor control commissioner;
- (5) "Fermented malt beverages" means any fermented malt liquor potable as a beverage containing more than one-half of one per cent of alcohol by volume.

[Ex. 1934 c. 58 s. 1] (3200-59)

340.45 FILING PROOF OF FEDERAL PERMIT. Every manufacturer, wholesaler, and brewer shall file with the commissioner proof that he has a government permit, together with the number thereof, which shall be registered by the commissioner.

[Ex. 1934 c. 58 s. 2] (3200-60)

340.46 LABELS ON CONTAINERS. No intoxicating liquor and no fermented malt beverage shall be sold, bartered, exchanged, or exposed for sale, kept in possession with intent to sell, or served in any premises unless there shall be placed upon the barrel, keg, cask, bottle, or other container a label bearing the name and address of the manufacturer, wholesaler, or brewer manufacturing the beverage and, in plain legible type, the registration number of the manufacturer, wholesaler, or brewer.

[Ex. 1934 c. 58 s. 3] (3200-61)

340.47 EXCISE TAX. Subdivision 1. On intoxicating liquors. There shall be levied and collected on all intoxicating liquors, sold in this state, the following excise tax:

Am
943-309-1

- (1) On all unfortified wines, the sum of ten 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 \$1.00 per gallon;
- (5) On all natural sparkling wines containing alcohol, the sum of \$1.00 per gallon;
- (6) On all artificial sparkling wines containing alcohol, the sum of 40 cents per gallon;
- (7) On all other distilled spirituous liquors, liqueurs and cordials, the sum of \$1.00 per gallon, but not including ethyl alcohol; provided, that in computing the tax on any package of spirits a proportional 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 one-sixteenth shall be taxed at the same rate as shall be taxed for one-sixteenth of a gallon.

Subdivision 2. **On fermented malt beverages.** 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. 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 employees for consumption only upon the brewery premises pursuant to a contract of employment be subject to such tax. Such tax shall be levied and collected at the rate of \$1.00 per barrel of 31 gallons, containing not more than 3.2 per cent of alcohol by weight, and a tax of \$2.00 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 these taxes shall be paid into the general revenue fund by the liquor control commissioner.

[*Ex. 1934 c. 58 s. 4; Ex. 1937 c. 8 s. 1; 1941 c. 47*] (\$200-62)

340.48 VIOLATION; PENALTY. The possession of any distilled spirituous intoxicating liquors for retail sale purposes not labeled and taxed in conformity with sections 340.44 to 340.56 is declared a misdemeanor and the possession of each container of such liquors shall be a separate offense.

[*Ex. 1937 c. 8 s. 2*] (\$200-62a)

340.49 STAMPS. Subdivision 1. **Preparation and printing of stamps.** The stamps herein provided for shall be prepared and printed by the state treasurer in such form and denominations as the commissioner may require and shall be issued by such state treasurer to the commissioner upon requisition by him from time to time. The commissioner shall make report to the state auditor at least once each month of the number and amount of stamps sold by him, and shall upon depositing receipts from the sale of such stamps with the state treasurer file a duplicate of such report with the treasurer. All expenses of the state treasurer in complying with the provisions of sections 340.44 to 340.56 shall be paid as other expenses of the commissioner are paid.

Subdivision 2. **Purchase of stamps.** Such excise tax shall be paid by the purchase of stamps from the commissioner, who shall designate the design and denominations thereof. The commissioner shall, by regulation, prescribe the manner in which these stamps shall be affixed and canceled. Such stamps shall be canceled by the person making the first sale of such fermented malt beverages within the state. No retailer shall sell or remove any fermented malt beverages from any barrel, keg, case, or other container unless the same shall have affixed thereto duly canceled stamps of proper denomination. Every manufacturer, wholesaler, brewer, or retailer shall be liable for the payment of the tax provided in this chapter on sales made for re-sale or consumption within this state, and shall be required to affix stamps of the proper amount on every barrel, keg, case, or other container containing fermented malt beverages imported from without the state, sold or delivered to any purchaser or consumer within this state, unless such stamps shall have been previously affixed and canceled. It shall not be necessary to affix stamps to individual bottles of fermented malt liquor, but no bottle containing the same shall be removed from containers for sale or consumption unless the original container in which the same was packed shall have affixed thereto stamps of proper denomina-

tions. Such stamps shall be affixed by the manufacturer, wholesaler, brewer, or other person to each barrel, keg, case, or other container of such fermented malt liquor before any sale, except that as to wines containing less than 25 per cent of alcohol by weight such stamps may be affixed at any time prior to sale to the consumer.

[*Ex. 1934 c. 58 s. 5*] (3200-63)

340.50 EXCEPTIONS. Sales by a manufacturer, wholesaler, or brewer for shipment outside the state in interstate commerce shall not be subject to the payment of the tax, nor shall sales to any regularly appointed and ordained rabbi, priest, minister, or pastor of any church or established religious organization, of wine for sacramental purposes be subject to the payment of such tax.

[*Ex. 1934 c. 58 s. 6; 1937 c. 240 s. 1*] (3200-64)

340.51 ENFORCEMENT; EMPLOYEES; RECORD OF SALE OF STAMPS; INSPECTION OF BOOKS AND PREMISES. The commissioner shall enforce and administer the provisions of sections 340.44 to 340.56 and employ and fix the compensation of any employees necessary for the performance of his duties thereunder.

The commissioner shall keep a suitable record of the sale of all stamps which shall show the dates of the sale thereof and the names of the purchasers. The commissioner may refund to any purchaser the money paid for any stamps returned unfit for use or otherwise unused, and prescribe the method of proof required for obtaining such refund.

The commissioner, or his duly authorized employees, may, at all reasonable hours, enter in and upon any licensed premises, and examine the books, papers, and records of any brewer, manufacturer, wholesaler, or retailer for the purpose of inspecting the same and determining whether the tax imposed by sections 340.44 to 340.56 has been fully paid, and shall have the power to inspect and examine any premises where fermented malt beverages are manufactured, sold, exposed for sale, possessed, or stored for the purpose of determining whether the provisions of sections 340.44 to 340.56 are being complied with.

[*Ex. 1934 c. 58 s. 7*] (3200-65)

340.52 INVOICES OF LIQUORS IMPORTED; CHECKING. For the purpose of fixing the amount of tax on all foreign or imported intoxicating liquors, the consignee of such liquors shall send all invoices for shipments of liquor to the office of the commissioner immediately upon receipt of the same. The consignees of any intoxicating liquors shall send a copy of all invoices of shipments of liquor to the office of the commissioner immediately upon receipt of same. Upon arrival of any intoxicating liquor, imported into this state, the same shall be taxed against the invoice by an inspector of the commissioner and the amount of stamps equivalent to the tax shall be affixed to the package. These stamps shall be designated as "package stamps."

[*Ex. 1934 c. 58 s. 8*] (3200-66)

340.53 UNLAWFUL AFFIXING OF LABELS; FORGERY AND COUNTERFEITING. Any person, other than the person or corporation registering the same, who shall place upon any barrel, keg, cask, bottle, or other container containing any fermented malt beverage, any label bearing a number registered by any other person or corporation, or who shall place upon any label a permit number not registered in the office of the commissioner, who shall falsely or fraudulently make, forge, alter, or counterfeit any stamp prescribed by sections 340.44 to 340.56, shall be guilty of a gross misdemeanor.

[*Ex. 1934 c. 58 s. 9*] (3200-67)

340.54 UNSTAMPED LIQUOR CONFISCATED. Intoxicating liquor and fermented malt liquor in the possession of any person without proper stamp or labels, as herein provided, without authority to have such intoxicating liquor and fermented malt liquor, without such stamps or labels, may be confiscated, as other contraband articles may be confiscated by law.

[*Ex. 1934 c. 58 s. 10*] (3200-68)

340.55 OFFENSES; FELONY. Every manufacturer or wholesaler and any one licensed to sell intoxicating liquor, who evades or attempts to evade a payment of the tax thereon or fraudulently neglects or refuses to keep full and complete accounts in the book or books of accounts, or who refuses or neglects to make true and exact entries and reports of the same in the manner as required by the rules and regulations prescribed by the commissioner, or in any manner required by law, or who in any manner conspires to violate any provision of sections 340.44 to 340.56,

or fails to do or cause to be done any of the things required by law to be done by such person, or who intentionally makes false entry in the book or in any statement, pertaining to his business, as contemplated in sections 340.44 to 340.56, or any one who shall refill or cause to be refilled a bottle or container which previously had contained intoxicating liquor, for the purpose of evading the payment of the tax thereon, or in any manner conspires to evade, avoid, or defraud the state out of the payment of the proper tax upon intoxicating liquor, shall be guilty of a felony.

[*Ex. 1934 c. 58 s. 11*] (3200-69)

340.56 OFFENSES; MISDEMEANOR. Any person who shall violate any of the provisions of sections 340.44 to 340.56 for which specific penalty is not therein provided shall be deemed guilty of a misdemeanor.

[*Ex. 1934 c. 58 s. 12*] (3200-70)

340.57 CERTAIN CITIES MAY ISSUE LIQUOR LICENSES. The governing body of any city of the first class now or hereafter existing, which city contains within its corporate limits any territory in which sales of intoxicating liquors have been heretofore prohibited by any law of this state, and which city has enjoyed such a substantial increase in business, manufacturing and population that it has increased its population 100,000 or more between the year 1900 and the year 1930, as shown by the United States census for these years, resulting in the extension in such prohibited territory of a substantial portion of the business, commercial, and industrial activities of such city, is hereby authorized and empowered, by a three-fifths vote of the governing body thereof, to grant licenses to sell intoxicating liquors in such prohibited territory; provided, that no greater number of licenses shall be issued therein than has been heretofore issued in such territory under authority granted by sections 340.42 and 340.43, notwithstanding any provision to the contrary in any city charter or law of this state.

[1935 c. 78 s. 1] (3200-71)

340.58 RESTRICTIONS. Sections 340.57 to 340.59 shall not be construed as authorizing the granting of a license to sell intoxicating liquor, within the capitol, or upon the grounds thereof, upon the state fair grounds, or within one-half mile thereof, at any place on the east side of the Mississippi river, within one mile from the main building of the University of Minnesota, within one-half mile of the limits of the state college of agriculture, nor within a radius of 1,500 feet of any academy, college, or university of higher education located within any such territory where sales of intoxicating liquors have been heretofore prohibited by any law of this state, nor in any portion of any such city which is zoned as a residence district or multiple dwelling district, excepting in so far as such business is permitted under the provisions of any zoning law.

[1935 c. 78 s. 2] (3200-72)

340.59 LAW REPEALED BY POPULAR VOTE. The powers granted by sections 340.57 to 340.59 shall be and the same are hereby repealed and annulled as to any such city when the legal voters thereof express themselves in favor of such annulment in the manner hereafter provided. The question of the continuation of such powers in the governing bodies shall be submitted to the voters whenever the governing body of any such city, by a three-fifths vote of the membership thereof, decides so to do, or when a petition is filed with such governing body six per cent in number of the legal voters of such city voting at the last general municipal election requesting such submission. The question shall be on a separate ballot and in the following form: "Shall the council continue to grant the liquor licenses authorized by sections 340.57 to 340.59." If the governing body submits the question, it shall determine the day on which the question shall be submitted to the voters. If the question is submitted pursuant to petition, such petition shall set forth the day on which the submission is to be had, which shall not be less than 60 days after the date of filing such petition, but in either case, whether submitted by the governing body or by petition, such question shall be submitted only on a state or municipal primary or general election day occurring in such city. The ballots of such voting shall be duly canvassed, certified, and returned in the same manner and at the same time as the returns for such other election and the election officials shall be the same as provided for such other election. If a majority of those voting on the question, as hereinbefore provided, answer in the negative, the governing body shall thereafter have no authority to exercise the powers granted by sections 340.57 to 340.59; provided, that liquor licenses issued under authority of this chapter

340.60 INTOXICATING LIQUORS

2466

and existing at the time of such election shall remain in full force and effect for a period of 60 days after such election.

[1935 c. 78 s. 3] (3200-73)

340.60 LIQUOR RECEIPTS PAID INTO STATE TREASURY. All taxes, penalties, license fees, and receipts of every kind, character, and description provided for and payable to the state under the terms and provisions of sections 340.07 to 340.40 and sections 340.44 to 340.56, including all moneys collected by the liquor control commissioner under rules and regulations established by him, such as certificate labels, truck labels, case labels, and any other form that he may establish, shall be paid into the state treasury the same as other departmental receipts, and are to be credited to the revenue fund of the state.

[1935 c. 130 s. 1] (3200-75)

Am 308-1
340.61 OUTSTANDING CERTIFICATES TO BE REDEEMED. All outstanding certificates of indebtedness issued under and pursuant to the provisions of Laws 1933, Extra Session, Chapter 67, shall be redeemed by the executive council out of any moneys received as specified in section 340.60.

[1935 c. 130 s. 2] (3200-76)

340.62 CERTAIN LIQUOR MUST BE REGISTERED. No licensed manufacturer or wholesaler shall import any brand of intoxicating liquors containing more than 25 per cent of alcohol by volume ready for sale without further proceeding unless such brand shall be duly registered in the patent office of the United States.

[1935 c. 390] (3200-78)

Am 308-1
340.63 DESTRUCTION OR DISPOSITION OF SEIZED LIQUORS. The liquor control commissioner is hereby authorized and directed to dispose of all intoxicating and spirituous liquors and liquids heretofore or hereafter seized by him or his agent and now or hereafter in his possession not contingent upon the final determination of any action pending in any court, by equitably allocating, distributing, and delivering the same, tax exempt, to the various state institutions for external and medicinal purposes. Application for such allocation may be made by any state institution having use for or using the liquors or liquids herein mentioned. The commissioner shall destroy any such liquors or liquids as are unfit for use, as herein provided, from time to time under such rules and regulations as he may make.

[1937 c. 151 s. 1] (3200-79)

340.64 TO REPORT TO DEPARTMENT OF SOCIAL SECURITY. The liquor control commissioner shall make a report to the department of social security of all such liquors enumerated in section 340.63 as shall have been disposed by him to the various state institutions or destroyed under his direction, as the case may be.

[1937 c. 151 s. 2] (3200-80)

340.65 SEARCH AND SEIZURE. When complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that any person, naming him, if his name is known, has in his possession for the purpose of selling, bartering, delivering, transferring, or otherwise disposing of any intoxicating liquor, without first having obtained license therefor, or of having unlawfully in possession any still, apparatus, implement, machine, device, or contrivance of any kind designed, used, or intended for use in the unlawful manufacture of intoxicating liquor, or having in possession for the purpose of selling, bartering, delivering, transferring, or otherwise disposing of any intoxicating liquor without first having paid the lawful tax thereon, and describing the premises or place where the law is alleged to be violated with reasonable certainty, such magistrate, if he is satisfied that there is reasonable cause for such relief, shall issue a search warrant to search the premises or place for and seize any such intoxicating liquors, or any such still, apparatus, implement, machine, device, or contrivance of any kind designed, used, or intended for use in the unlawful manufacture of intoxicating liquor, commanding the officer to bring the same, when found, before such magistrate to be used as evidence at the preliminary hearing and trial of such person as may be accused of having the same in his possession.

[1937 c. 185 s. 1] (3200-81)

340.66 POSSESSION PRIMA FACIE EVIDENCE. The finding of any such intoxicating liquors in the possession of any person, by means of search warrant shall be prima facie evidence that such person had possession of such liquors for the purpose of selling, bartering, giving away, delivering, transferring, or otherwise disposing of the same without first having obtained license therefor or for the

purpose of evading payment of taxes thereon. The finding of any such still shall be prima facie evidence that such person had possession thereof for the purpose of the unlawful manufacture of intoxicating liquors.

[1937 c. 185 s. 2] (3200-82)

340.67 OFFICER TO MAKE INVENTORY. The officer seizing such property shall make an inventory of the same and serve promptly a copy thereof upon the defendant or person in charge of the premises. The officer seizing the property shall retain possession thereof until after the trial of the defendant for any alleged violation of the liquor laws of the state. In the event the defendant so charged is acquitted, the property shall be promptly returned to the defendant. If the defendant be convicted, then all of the property so seized shall be destroyed or disposed of as ordered by the court. In case a sale is ordered of any part thereof, the proceeds shall be paid into the school fund of the county.

[1937 c. 185 s. 3] (3200-83)

340.69 CERTAIN ACTS DECLARED TO BE MURDER. Any person who shall unlawfully sell intoxicating liquor which, when drunk, causes the death of the person drinking the same, shall be guilty of murder in the third degree.

[1923 c. 393 s. 1] (3237)

340.70 SALE OF INTOXICATING LIQUORS LIABLE TO CAUSE PERMANENT PHYSICAL OR MENTAL INJURY A FELONY. Any person who shall unlawfully sell intoxicating liquor which, when drunk, causes permanent physical or mental injury to the person drinking the same, shall be guilty of a felony.

[1925 c. 221 s. 1] (3238-1)

340.71 SELLING OR GIVING AWAY ANY POISONOUS LIQUOR A GROSS MISDEMEANOR. Any person who shall sell or give away for beverage purposes any poisonous liquor or liquid consisting of or that contains methyl alcohol, denatured alcohol, denaturing material, or any other poisonous substance capable of causing serious physical or mental injury to any person who may drink the same, shall be guilty of a gross misdemeanor.

[1929 c. 249 s. 1] (3238-2½)

340.72 PLACES WHERE SALE FORBIDDEN. The sale of intoxicating liquor in any quantity whatever is also forbidden in the following places:

(1) In any town or municipality in which a majority of votes at the last election at which the question of license was voted upon shall not have been in favor of license, or within one-half mile of any such municipality, except that any intoxicating liquor, manufactured within any such district, may be sold to be consumed outside of such district;

(2) Within the capitol, or upon the grounds thereof;

(3) Upon the state fair grounds, or within one-half mile thereof;

(4) At any place on the east side of the Mississippi river within one mile from the main building of the University of Minnesota;

(5) Within 1,500 feet of any state normal school, or any public school outside of a municipality;

(6) At more than five places on any one side of a block within and fronting upon the patrol limits of cities of the first class.

[R. L. s. 1533] (3238-3)

340.73 PERSONS TO WHOM SALES ARE ILLEGAL. It shall be unlawful for any person, except a licensed pharmacist to sell, give, barter, furnish, or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, malt, or fermented liquors in any quantity, for any purpose, whatever, to any minor person, or to any pupil or student of any school or other educational institution in this state, or to any intoxicated person, or to any person of Indian blood, or to any public prostitute.

It shall be unlawful for any person except a licensed pharmacist to sell, give, barter, furnish or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, malt or fermented liquors in any quantity, for any purpose, whatever, to any spendthrift, habitual drunkard, or improvident person, within one year after written notice by any peace officer, parent, guardian, master, employer, relative, or by any person annoyed or injured by the intoxication of such spendthrift, habitual drunkard, or improvident person, forbidding the sale of liquor to any such spendthrift, habitual drunkard, or improvident person.

Whoever shall in any way procure liquor for the use of any person named in this section shall be deemed to have sold it to such person. Any person violating any of the provisions of this section shall be deemed guilty of a gross misdemeanor.

[R. L. s. 1534; 1911 c. 83; 1913 c. 538 s. 1] (3238-4)

340.74 FRAUDULENT SHIPMENTS. Every person who shall knowingly deliver or cause to be delivered to any common carrier for shipment any liquor under a false or misleading title, name, or mark, and every common carrier, or agent of such carrier, who shall knowingly receive the same for shipment, and every person knowingly shipping or receiving liquor so marked, shall be guilty of a misdemeanor; and any liquor so shipped with the knowledge of the owner, and the casks or packages containing the same, shall be forfeited to the school fund of the county. The books and waybills of any common carrier handling such liquors may be examined by any police officer for the purpose of tracing such liquors to the shipper or receiver.

[R. L. s. 1555] (3238-5)

340.75 LIQUOR NEAR STATE FAIR GROUNDS. Any person who shall sell any liquor or maintain a drinking place within one mile of the state fair grounds, while the state fair is being held, or shall aid or abet another in either of such acts, shall be guilty of a gross misdemeanor, and shall be punished for the first offense by a fine of not less than \$100.00, nor more than \$250.00, or imprisonment for not less than 30, nor more than 90, days, or by both fine and imprisonment; for each subsequent offense, by a fine of not less than \$500.00, nor more than \$1,000, or by imprisonment in the county jail for not less than three, nor more than six, months, or by both.

[R. L. s. 1556] (3238-6)

340.76 PHARMACISTS; ILLEGAL ACTS. Any pharmacist or druggist who shall sell any liquor, except as allowed by this chapter, or allow his place of business to be used as an unlicensed drinking place, shall be subject to all the penalties provided in this chapter for such acts.

[R. L. s. 1557] (3238-7)

340.77 PHYSICIANS; ILLEGAL ACTS. Every physician who shall give a prescription of liquor for other than medicinal purposes, or with intent to aid in the evasion of the liquor laws of this state, shall be guilty of a misdemeanor, and subject to the penalties prescribed for the illegal sale of liquor, and forfeit his license as a physician.

[R. L. s. 1558] (3238-8)

340.78 SALES TO MINORS, HABITUAL DRUNKARDS, OR PERSONS UNDER GUARDIANSHIP AFTER NOTICE. Every person selling liquor to a minor, habitual drunkard, or person under guardianship, after written notice by a parent, husband, wife, child, guardian, master, or employer of such minority, habitual drunkenness, or guardianship, or in the case of an habitual drunkard after written notice by the mayor, chief of police, or any member of the council of the municipality in which such habitual drunkard resides, or member of the county board of the county in which such habitual drunkard resides, and within one year after such notice in case of an habitual drunkard, and in other cases during the continuance of the minority, or guardianship, shall be punished by a fine of not less than \$50.00, nor more than \$100.00, or imprisonment in the county jail for not less than 30, nor more than 90, days.

[R. L. s. 1559; 1907 c. 247 s. 1] (3238-9)

340.79 GIVING TO, OR PROCURING FOR, MINORS. Any person who shall give to, procure or purchase, intoxicating liquors for any minor person or other person to whom the sale of intoxicating liquors is by law forbidden, shall be guilty of a gross misdemeanor and, upon conviction, shall be punished in accordance with the laws of the state.

[1911 c. 290 s. 1] (3238-10)

340.80 INDUCING MINORS TO ENTER SALOONS. Any person who shall assist, procure or induce any minor or other person to whom the sale of liquor is by law forbidden, to enter or visit any saloon, bar, buffet or public drinking place for the purpose of obtaining intoxicating liquors, shall be guilty of a gross misdemeanor; and, upon conviction, punished therefor according to the laws of the state.

[1911 c. 369 s. 1] (3238-11)

340.81 EXCLUSION OF MINORS FROM PLACES WHERE LIQUOR IS SOLD AFTER NOTICE; PENALTY. No minor, intemperate drinker, habitual drunkard, inmate of a poor or alms house, or person under guardianship, shall be allowed in any room where intoxicating liquor is sold in less quantities than five gallons as a beverage, after written notice upon the licensee or his agent, by parent, husband, wife, child, guardian, master or employee of such minority, intemperate drinking, habitual drunkenness or guardianship, or in the case of an intemperate drinker, inmate of a poor or alms house, or habitual drunkard, after written notice by the mayor, chief of police, judge of the municipal court, or any member of the council of the municipality in which such intemperate drinker, or habitual drunkard, resides, or member of the county board of the county in which such inmate of a poor or alms house, intemperate drinker or habitual drunkard resides, and within one year after such notice, in case of an inmate of a poor or alms house, intemperate drinker or habitual drunkard, and in other cases during the continuance of the minority or guardianship. Any violation of this chapter shall be punished by a fine of not less than \$25.00, nor more than \$100.00, or by imprisonment in the county jail for not less than 30, nor more than 90, days.

[1909 c. 198 s. 1] (3238-12)

340.82 SALE TO INDIANS. Whoever sells or in any way furnishes liquor to any person of Indian blood, whether a member of any tribal organization or not, except as hereinbefore provided in case of licensed pharmacists, shall be guilty of a felony, and punished by imprisonment in the state prison for not more than two years, and a fine of not more than \$300.00.

[R. L. s. 1560] (3238-13)

340.83 SALES TO PERSONS PAROLED FROM STATE INSTITUTIONS. 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, employee, or otherwise, any spirituous, vinous, malt, or fermented liquors in any quantity or for any purpose whatever, to any person on parole from any state institution of this state during the term of his parole; and any person violating the foregoing provision of this section shall be guilty of a misdemeanor; and, upon conviction thereof by any court having jurisdiction, punished by fine of not less than \$25.00, nor more than \$100.00, and costs of prosecution, or by imprisonment in the county jail not less than 30, nor more than 90, days, or until such fine and costs are paid, not exceeding 90 days.

[1905 c. 72 s. 1] (3238-14)

340.84 KNOWLEDGE. Section 340.83 shall not apply to persons who have no knowledge that the person procuring such liquors is such paroled person.

[1905 c. 72 s. 2] (3238-15)

340.85 DUTIES OF OFFICERS. Every sheriff, constable, marshal, and policeman shall summarily arrest any person found committing any act forbidden by this chapter, and make complaint against him. Every county attorney shall prosecute all cases under this chapter arising in his county. The president or mayor of every municipality shall make complaint of any known violation of the provisions of this chapter, and the chief of police and all policemen shall make arrests and complaints as in this section provided, anything in the ordinances or by-laws of such municipality to the contrary notwithstanding.

[R. L. s. 1561] (3238-16)

340.86 NEGLECT OF DUTIES BY OFFICERS. Any county commissioner, member of a municipal council, sheriff, or other officer, who wilfully refuses or neglects to perform any official duty imposed by this chapter, shall be guilty of malfeasance in office, and shall be removed therefrom, and be disqualified from holding the same for and during the remainder of the term for which he was elected or appointed, and shall forfeit not less than \$100.00, nor more than \$500.00, which amount may be recovered in an action against him personally or on his official bond.

[R. L. s. 1562] (3238-17)

340.87 DEFINITIONS. The terms "intoxicating liquor" and "liquor," wherever used in this chapter, include distilled, fermented, spirituous, vinous, and malt liquor. The terms "sell" and "sale" include all barter, gifts, and all means of furnishing liquor in violation or evasion of law.

[R. L. s. 1563] (3238-18)

340.88 INTOXICATED PERSONS ON STREET CARS OR RAILWAY TRAINS. No person shall while intoxicated enter or be or remain upon a railway train or street car as a passenger.

[1911 c. 28; 1913 c. 417 s. 1] (3238-19)

340.89 DRINKING ON TRAINS, STREET CARS. No person shall publicly drink any intoxicating liquor as a beverage in any railway train, coach, or street car, or give, or cause to be given, to any other person therein, intoxicating liquor as a beverage, except in a compartment or place where such liquor is sold or place where such liquor is sold or served under the authority of a license lawfully issued.

[1911 c. 28; 1913 c. 417 s. 2] (3238-20)

340.90 PERMITTING DRINKING ON TRAINS, STREET CARS; PENALTY. Persons and corporations engaged, wholly or in part, in the business of carrying passengers for hire, their agents, servants or employees, who shall knowingly permit any person to drink any intoxicating liquor as a beverage in any railway train, coach or street car, except in a compartment where such liquor is sold or served under the authority of a license lawfully issued, and any person violating any provision of sections 340.88 to 340.93 shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$10.00, nor more than \$100.00, or by imprisonment in the county jail for not less than 20, nor more than 90, days.

[1911 c. 28; 1913 c. 417 s. 3] (3238-21)

340.91 CONDUCTORS TO ARREST. The conductor of any railway train or street car shall summarily arrest, with or without a warrant, any person violating any of the provisions of sections 340.88 to 340.93; and, for such purpose, shall have the same power and authority as any peace officer, including the power to summon assistance, and such conductor shall further have power to deliver any such person to any policeman, constable or other public officer of the county in which such offense was committed, and it shall be the duty of such officer to bring the person charged with such offense before the nearest justice of the peace or municipal court of the county where the offense was committed and to make a complaint against such person, and such complaint made upon information and belief of the officer, shall be sufficient.

[1911 c. 28; 1913 c. 417 s. 4] (3238-22)

340.92 INTOXICATED PERSONS LEAVING TRAINS; DUTIES OF CONDUCTOR AND EMPLOYEES. No conductor or employee of any railroad company shall expel or allow any intoxicated person who is not in charge of a person who is not intoxicated, to depart from his train at a station where there is no police protection, jail or lockup, but shall carry such intoxicated person to the nearest station having police and jail protection.

[1911 c. 28; 1913 c. 417 s. 5] (3238-23)

340.93 SEIZURE OF LIQUORS. The conductor of any railway train or street car may take from any person found violating any of the provisions of sections 340.88 to 340.93 any intoxicating liquor then in the possession of such person and deliver the same to the nearest station agent, giving the person from whom it is taken a receipt therefor. Upon the presentation and surrender of such receipt within ten days thereafter, such liquor shall be delivered to the person presenting same; and, if not so delivered within such time, shall be destroyed by such station agent.

[1911 c. 28; 1913 c. 417 s. 6] (3238-24)

340.94 PROSECUTIONS AND EVIDENCE. In prosecutions under this chapter, it shall not be necessary to allege or prove the name or kind of intoxicating liquor sold, and proof of the sale of what appeared to be intoxicating liquor shall be prima facie proof of the sale of such liquor. In all prosecutions for keeping an unlicensed drinking place, the finding of intoxicating liquor on the premises, or of any bar, bar fixtures, or other things apparently used for or in connection with the sale of intoxicating liquor, or any sign or advertisement indicating the sale of liquor on such premises, or a receipt for the United States tax for the sale of spirituous, vinous, malt or fermented liquor posted therein, and covering the time alleged in the complaint or indictment, or proof of the payment of such tax for such period, shall, except in case of a licensed pharmacist engaged at such place in the business of druggist or pharmacist, be prima facie evidence that such place is a public drinking place. In any prosecution under this chapter, it shall not be necessary to prove the want of license, but such license shall be a matter of defense.

[R. L. s. 1566] (3238-25)

340.941 SALE BY EMPLOYEE. Any sale of liquor in or from any public drinking place by any clerk, barkeeper, or other employee authorized to sell liquor in such place shall be deemed the act of the employer as well as that of the person actually making the sale; and every such employer shall be liable to all the penalties provided by law for such sale, equally with the person actually making the same.

[R. L. s. 1565] (3233-18½)

340.95 CIVIL ACTIONS FOR INJURIES CAUSED BY INTOXICATION. Every husband, wife, child, parent, guardian, employer, or other person who shall be injured in person or property, or means of support, by any intoxicated person, or by the intoxication of any person, shall have a right of action, in his or her own name, against any person who shall, by illegally selling, bartering or giving intoxicating liquors, have caused the intoxication of such person, for all damages, sustained; and all damages recovered by a minor under this section shall be paid either to such minor or to his or her parent, guardian, or next friend, as the court shall direct; and all suits for damages under this section shall be by civil action in any of the courts of this state having jurisdiction thereof.

[1911 c. 175 s. 1] (3239)

340.96 DRUNKENNESS; SUCCESSIVE OFFENSES; SUSPENSION OF SENTENCE. Every person who becomes intoxicated by voluntarily drinking intoxicating liquors shall be guilty of the crime of drunkenness, and punished as follows: For a first offense, by imprisonment in the county jail for not more than 40 days, or by a fine of not more than \$40.00; for the second offense, by imprisonment for not more than 60 days, or by a fine of not more than \$60.00; for the third and all subsequent offenses, by imprisonment for not less than 60 days, nor more than three months; provided, that the court may, in its discretion, after conviction, for the first or second offense suspend sentence during the good behavior of the accused, but if he shall again transgress within a period of six months thereafter, he shall again be brought before the court and shall be punished by a term of imprisonment as provided for in this section.

[R. L. s. 5161; 1907 c. 208 s. 1] (10452)