

Police Regulations

CHAPTER 340

INTOXICATING LIQUORS

Sec.		Sec.	
	BEER	340.37	Certificate of result of election as evidence in pleadings
340.01	Licenses for sale of non-intoxicating beverages	340.38	Arrest of violators; complaints and prosecutions
340.013	Malt liquor license fees divided between county and town	340.39	Statutes and ordinances, when not operative
340.02	Unlawful to sell unless licensed	340.40	Petition for election; order, notice, certificate
340.021	Closing hours for sale of non-intoxicating liquors	340.401	Definitions for sections 340.401 to 340.407
340.022	Municipalities may not extend closing hours	340.402	Licenses, fees
340.023	Violations	340.403	Bond and license
340.024	Sheriff's contingent fund established	340.404	Suspension or revocation of licenses
340.025	3.2 licensees not to hold federal liquor stamps	340.405	Brewers or wholesalers not to be retailers
340.026	Licensees extending federal stamps; misdemeanor	340.406	Exclusive contracts forbidden
340.03	Unlawful to sell to minors	340.407	Violators; violations
340.04	Duration of licenses	340.41	Liquor stores may sell food, tobacco, and soft drinks
340.05	Penalty	340.44	Liquor tax act; definitions
340.06	Non-intoxicating malt liquors excluded	340.45	Filing proof of federal permit
	LIQUOR CONTROL	340.46	Labels on containers
340.07	Definitions	340.461	Labels for intoxicating liquor containers
340.08	Liquor control commissioner		EXCISE TAX
340.09	Office assistants	340.47	Excise tax
340.10	Publishing regulations	340.48	Violation, penalty
340.11	Licenses	340.49	Stamps
340.111	Additional "on sale" licenses in certain cities	340.50	Exceptions
340.112	When license fee refunded	340.51	Enforcement; employees, record of sale of stamps
340.113	Importers of intoxicating liquors	340.52	Invoices of liquors imported
340.12	Application for license	340.53	Unlawful affixing of labels; forgery and counterfeiting
340.13	Revocation of licenses	340.54	Unstamped liquor confiscated
340.14	Regulations	340.55	Offenses, felony
340.141	Refilling of bottles	340.56	Offenses, misdemeanor
340.142	Diluting or tampering with contents of original package	340.57	Certain cities may issue liquor licenses
340.143	Violation of section 340.141 or 340.142 a gross misdemeanor	340.58	Restrictions
340.15	Commissioner to assist public education; regulating advertising	340.59	Law repealed by popular vote
340.16	Licenses not to issue in certain municipalities; local regulations	340.60	Liquor receipts
340.17	Sacramental wine; license of sale	340.601	Evasion a gross misdemeanor
340.18	Sale for medicinal, mechanical, and scientific purposes, license	340.602	Payment of certain taxes
340.19	Removal of officers; licenses revoked; bonds forfeited; violations	340.61	Outstanding certificates to be redeemed
340.20	Local option elections in villages	340.62	Certain liquor shall be registered
340.21	Result of election		DISPOSITION OF SEIZED LIQUOR
340.22	Local option election in fourth class cities on petition; notice	340.63	Destruction or disposition of seized liquors
340.23	Ballots; marking and casting; canvass; result; manufacture; prescriptions	340.64	Report to department of social security
340.24	Charter and ordinance provisions continued; suspension		SEARCH AND SEIZURE
340.245	Limitation upon establishment of municipal liquor store	340.65	Search and seizure
340.25	Local option elections in counties	340.66	Possession prima facie evidence
340.26	Special election; time	340.67	Officer to make inventory
340.27	Notice of special election		VIOLATIONS AND PENALTIES
340.28	Judges and clerks of election	340.69	Certain acts declared to be murder
340.29	Challenge of voters	340.70	Sale of intoxicating liquors liable to cause permanent physical or mental injury a felony
340.30	Ballots	340.71	Selling or giving away poisonous liquor a gross misdemeanor
340.31	Laws applicable; oath to voters	340.72	Places where sale forbidden
340.32	County canvassing board; canvass and certification of results	340.73	Persons to whom sales are illegal
340.33	Contest of election; mandamus	340.731	Minor forbidden to enter premises licensed to sell alcoholic beverages, to consume alcoholic beverages or misstate his age
340.34	Result of election; accrued offenses	340.732	Violations and penalties
340.35	Licenses withheld and suspended; refund	340.74	Fraudulent shipments
340.353	Change of population; operation of municipal liquor store	340.75	Liquor near state fair grounds
340.36	Offenses in prohibition territory; unexpired licenses; liquor manufactured and stored; prescriptions by physicians	340.76	Pharmacists; illegal acts
		340.77	Physicians; illegal acts
		340.78	Sales to minors and others, after notice
		340.79	Giving to, or procuring for, minors
		340.80	Inducing minors to enter saloons
		340.81	Exclusion from places where liquor is sold, after notice; penalty
		340.82	Sale to Indians
		340.83	Sales to persons paroled from state institutions
		340.84	Knowledge

Sec.	
340.85	Duties of officers
340.86	Neglect of duties by officers
340.87	Definitions
340.88	Intoxicated persons on street cars or railway trains
340.89	Drinking on trains, street cars
340.90	Permitting drinking on trains, street cars; penalty
340.91	Conductors to arrest

Sec.	
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	Drunkennes; successive offenses; suspension of sentence

BEER

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 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. Before any town board shall give consent to the issuance of any license by the county board in their township, they shall have secured the written recommendation and the accompanying statement provided for in the following paragraph.

No license shall be issued or renewed by the county board after application has been made therefor until said county board shall have secured the written recommendation of the sheriff and of the county attorney. Said recommendation shall be accompanied by a statement attesting that to the best of their knowledge the applicant has not, within a period of five years prior to the date of such application, violated any law relating to the sale of non-intoxicating malt liquor or of intoxicating liquor and that in their judgment the applicant will comply with the laws and regulations relating to the conduct of said business in the event said license is issued or renewed. Before issuing or renewing any license, the county board shall consider the recommendation of the sheriff and the county attorney, the character and reputation of the applicant, the nature of the business to be conducted and the type of premises and propriety of the location of said business.

Persons holding licenses shall not permit any minor to loiter or remain in the room where non-intoxicating malt liquor is being sold or served unless accompanied by his parent or legal guardian. No license shall be issued or renewed if the applicant within a period of five years prior to the date of such application has been convicted of violating any law relating to the sale of non-intoxicating malt liquor or of intoxicating liquor.

[1933 c 116 s 1; 1945 c 589 s 1; 1949 c 700 s 1] (3200-5)

340.013 MALT LIQUOR LICENSE FEES DIVIDED BETWEEN COUNTY AND TOWN. One-half of the fee received by the county for license to sell non-intoxicating malt liquors, at wholesale or retail, in any town in the county shall be paid to the town board where such business is located.

[1949 c 581 s 1]

340.02 LICENSE REQUIRED TO SELL. Subdivision 1. It shall be unlawful to sell non-intoxicating malt liquors, at retail, or wholesale, except when licensed as hereinafter provided. There shall be three types of licenses.

Subd. 2. Retail "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 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, bona fide clubs and establishments for the sale of non-intoxicating malt beverages, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail; provided that no manufacturer or wholesaler 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.

Subd. 3. Retail "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. Wholesale licenses shall permit the licensee to sell non-intoxicating malt beverages to holders of on or off sale retail licenses and the licensee fee therefor shall be \$10 per annum.

Subd. 4. The liquor control commissioner may issue an "on sale" license to any railroad company operating within the state which shall permit such railroad company to sell non-intoxicating malt liquors in its dining cars, buffet cars, cafe 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 liquor control commissioner a fee of \$25 for such license and 25 cents for each duplicate thereof, which fee shall be paid into the state treasury.

Subd. 5. 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.

Subd. 6. 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.

Subd. 7. Licenses hereunder shall be issued only to persons who are citizens of the United States and who are of good moral character and repute, who have attained the age of 21 years and who are proprietors of the establishments for which the licenses are issued.

Subd. 8. No manufacturer or wholesaler shall, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder or partner thereof, give, lend or advance any money, credit, or other thing of value to any retailer or to any person for the benefit or relief of any retailer, nor furnish, give, lend, lease, or sell to any person any furniture, fixtures, fittings, or equipment; nor shall any manufacturer or wholesaler, directly or indirectly, have any interest in, or pay for, any retail licenses, or advance, furnish, lend or give money for the payment of retail license fees or any expense incident to the obtaining of such license; nor shall any manufacturer or wholesaler become bound in any manner, directly or indirectly for the repayment of any loan made to, or the fulfillment of any financial obligation of, any retailer; except that manufacturers or wholesalers may:

(a) furnish, lend, or rent outside signs to retailers, provided the cost of such signs, in the aggregate, furnished, lent, or rented by any manufacturer or wholesaler to any retailer shall not exceed \$100 exclusive of erection, installation, and repair charges; but nothing herein shall be construed as affecting signs owned and located in the state on the effective date hereof by any such manufacturer or wholesaler; (b) furnish inside signs, miscellaneous advertising matter, and other items not to exceed, in the aggregate, a cost of \$25 in any calendar year to any one retailer; (c) furnish or maintain for retailers such equipment as is designed and intended to preserve and maintain the sanitary dispensing of non-intoxicating malt liquors, provided the expense incurred thereby does not exceed the sum of \$25 per tap per calendar year, no part of which shall be paid in cash to any retailer; (d) acquire within ten days after the effective date of Laws 1949, Chapter 700, any furniture, fixtures, fittings, and equipment or any valid lien thereon or interest therein, which were actually installed on the premises of any retailer prior to the effective date hereof; (e) lease or lend to the owner of the premises, or to any retailer now or hereafter occupying the premises, any furniture, fixtures, fittings, and equipment actually located on said premises on the effective date of Laws 1949, Chapter 700.

Subd. 9. Any such manufacturer or wholesaler who, within ten days after the effective date hereof, owns any furniture, fixtures, fittings, or equipment in possession of any retailer on the effective date hereof may, within 90 days after said effective date, sell the same to such retailer only for cash on delivery and deliver a bill of sale to the same.

Subd. 10. No manufacturer or wholesaler shall hereafter, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder, or partner enter into any agreement, oral or written, whether or not incor-

porated in any chattel mortgage, conditional sales contract, bill of sale, lease land contract, mortgage, deed, or other instrument, wherein and whereby any retailer is required to purchase the non-intoxicating malt liquor of any manufacturer to the exclusion, in whole or in part, of the products of other manufacturers.

Subd. 11. Any retailer who shall be a party to any violation of subdivision 8 or subdivision 9 or who shall receive the benefits thereof shall be equally guilty of a violation of the provisions thereof and shall be subject to the penalty hereinafter provided.

Subd. 12. Any person who shall violate the provisions of subdivision 8 or subdivision 9 shall be guilty of a gross misdemeanor and each violation shall constitute a separate offense.

[1933 c 116 s 2; 1943 c 459 s 1; 1945 c 595 s 1; 1949 c 475 s 1; 1949 c 700 s 2] (3200-6)

340.021 CLOSING HOURS FOR SALE OF NON-INTOXICATING LIQUORS.

No sale of non-intoxicating liquor shall be made on any Sunday between the hours of one A.M. and twelve o'clock noon, nor between the hours of one A.M. and eight o'clock P.M., on any election day in the district in which the election shall be held. No sale shall be made between the hours of one A.M. and eight A.M. on any weekday Monday through Saturday inclusive.

[1939 c 402 s 1; 1949 c 654 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, further limit the hours of sale of non-intoxicating liquors provided that such limited hours for sale shall apply to both non-intoxicating malt liquors and intoxicating liquors.

[1939 c 402 s 2; 1949 c 654 s 2] (3200-10b)

340.023 VIOLATIONS. 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 shall be transferred into the general revenue fund of the county.

[1939 c. 111] (3200-84)

340.025 3.2 LICENSEES NOT TO HOLD FEDERAL LIQUOR STAMPS. 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 stamp 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 c. 1] (3965-19)

340.026 LICENSEES HOLDING FEDERAL LIQUOR STAMPS; MISDEMEANOR. 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 busi-

340.03 INTOXICATING LIQUORS

2644

ness 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 MINORS. It shall be unlawful:

(1) For any licensee or his employee to sell or serve non-intoxicating malt liquor to any minor or to permit any minor to consume non-intoxicating malt liquor on the licensed premises unless accompanied by his parent or legal guardian;

(2) For any person other than the parent or legal guardian to procure non-intoxicating malt liquor for any minor;

(3) For any person to induce a minor to purchase or procure non-intoxicating malt liquor;

(4) For any minor to misrepresent his age for the purpose of obtaining non-intoxicating malt liquor.

[1933 c. 116 s. 3; 1945 c. 161 s. 1] (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)

LIQUOR CONTROL

340.07 DEFINITIONS. Subdivision 1. 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 645.44, subdivision 6.

Subd. 2. The term "package" or "original package" means and includes any container or receptacle holding liquor, which container or receptacle is corked or sealed.

Subd. 3. The term "municipality" means any city, village, or borough.

Subd. 4. "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.

Subd. 5. "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. When such municipally owned liquor store has been established heretofore in a city of the fourth class and such city by reason of an increase in population, as evidenced by the 1950 federal census, becomes a city of the third class, such store or stores may be continued in operation under city management; provided, that within six months after the city becomes a city of the third class, the question, "Shall the city continue to own and operate a municipal liquor store?" is submitted to the voters of the city at a general or special city election and a majority of the voters voting upon the question at the election vote in the affirmative upon the question. The notice of the election shall show that the question "Shall the city continue to own and operate a municipal liquor store?" is to be submitted to the electors at the election.

Subd. 6. "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.

Subd. 7. 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.

Subd. 8. 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.

Subd. 9. 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; 1947 c 342 s 1*] (3200-21)

340.08 LIQUOR CONTROL COMMISSIONER. Subdivision 1. 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.

Subd. 2. 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.

Subd. 3. The salary of the liquor commissioner shall be \$6,000 per year and he shall be entitled to his actual expenses in the performance of his duties.

Subd. 4. 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; 1949 c 739 s 17] (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, clerks, and other assistants as he may require. All employees of the commissioner shall be in the classified service. He shall set up an adequate system for the administration of Minnesota Statutes 1941, Sections 340.07 to 340.96, and have supervision over and power to regulate all forms of advertising and display of liquors. The commissioner shall have power to make all reasonable regulations to effect the object of sections 340.07 to 340.96 and to fix maximum prices from time to time on all liquors sold at wholesale. Such regulations shall include provisions for assuring the purity of intoxicating liquors and the true statement of its contents and proper labeling thereof with regard to all forms of sale.

[*Ex*. 1934 c. 46 s. 3; 1945 c. 309 s. 1] (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. Subdivision 1. It shall be unlawful for any person, directly or indirectly, upon any pretense or by any devise, 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. No wholesaler's license shall be granted to any person or partnership unless the person or each member of a partnership applying for such license shall have been a resident or residents of the state for a period of five years continuously immediately prior to such application for a license, and that such persons shall have voted at least twice during said period of five years at a general state election if two general state elections have been had since such person reached his majority. No wholesaler's license shall be granted to any corporation unless all of the officers, directors, and stockholders, who own or control more than 75 per cent of the stock by value and 75 per cent of the voting rights of the stock, of such corporation applying for a license shall have been residents of the state for a period of five years continuously immediately prior to such application for a license and any and all such persons shall have voted at least twice during said period of five years at a general state election if two general state elections have been had since such person reached his majority. Persons, partnerships, or corporations lawfully licensed as wholesalers in the state of Minnesota at the time of enactment of Laws 1945, Chapter 162, shall not be subject to any residence or voting requirements to renew their

wholesalers' license. Persons now serving in the Armed Forces of the United States of America or who have served in the Armed Forces of the United States of America during anytime since July 1, 1942, shall be given credit as having voted at any general election held during the time they served in the Armed Forces of the United States of America. All licenses for retail "off-sale" shall be granted by the local governing body, subject to the approval of the liquor control commissioner, and shall not become effective until so approved.

Subd. 2. 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 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.

Subd. 3. "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.

Subd. 4. 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. The governing body of any municipality issuing "on sale" licenses shall within ten days after such issuance submit to the liquor control commissioner the full name and address of each person granted such license, and other information shall include the trade name, the effective license date, the date of expiration and any change of address, transfer, cancellation or the revocation of such license by the governing body during the license period. No "on sale" licenses shall be issued contrary to any of the provisions of sections 340.07 to 340.40.

Subd. 5. Not more than one "on sale" license shall be issued in any city of the first class for every 1,500 inhabitants; provided, 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 said city between the federal census of 1920 and the federal census of 1930, or where the 1940 federal census shows a decrease from the 1930 census and as a result thereof "on sale" licenses have been issued in excess of one for every 1,500 inhabitants as determined by the federal census of 1940, said city of the first class may continue to issue the number of "on sale" licenses which said city issued in the year 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, except that not more than 30 "on sale" licenses shall be issued in any city of the second class operating under a special charter.

Subd. 6. "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.

Subd. 7. 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; provided, that in determining the population of any such village there shall be included therein the population of any township which was formerly a portion of such village and which was separated therefrom subsequent to the year 1935. 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 inhabitants 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 state constitution, 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.

Subd. 8. In counties having an area of more than 5,000 square miles, if the liquor control commissioner also approves, the governing body in cities of the third class may grant 15 such licenses and in cities of the fourth class may issue nine such licenses and in villages having a population of more than 2,500, and less than 5,000, six such licenses.

Subd. 9. 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. All villages having 350 inhabitants or over, according to the 1940 federal census, in any county having less than 10,000 inhabitants, according to the 1940 federal census, and having more than 15, and less than 25, full and fractional congressional townships, and having a land area of more than 550, and less than 570, square miles, and having more than six incorporated cities, villages, and boroughs, may establish and maintain a municipal liquor store, for either "on sale" or "off sale," or both, after authorization so to do by a majority of those voting on the question at any election. On petition of 25 legal voters addressed to the village council and filed with the village clerk at least ten days before the election demanding that the question of establishing a municipal liquor store be submitted to the electorate, such question shall be submitted to the voters at the next ensuing general election in such village. If at such election a majority of the votes cast upon the question be in favor of authorizing the village to maintain a municipal liquor store, then the village council may establish such store, for either "off sale" or "on sale," or both, as the council may determine.

Subd. 10. "On sale" licenses may be issued for the sale of intoxicating liquors in hotels, clubs, restaurants and establishments for the sale of "On sale" liquors exclusively in cities of the first, second, and third class and villages of over 10,000 inhabitants, and in cities of the fourth class where such cities have a population in excess of 3,000 persons and are adjacent to cities of the third class. 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.

Subd. 11. The 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 said limitation, any city of the first class in which "Off sale" licenses have heretofore been issued upon an estimated population computed on the increase in population in said city between the federal census of 1920 and the federal census of 1930, or

where the 1940 federal census shows a decrease from the 1930 census and as a result of such computation "Off sale" licenses have been issued in excess of one for every 5,000 inhabitants as determined by the federal census of 1940, said city of the first class may continue to issue the number of "Off sale" licenses which said city issued for 1940. In such cities, such licenses shall be issued only to proprietors of drug stores, general food stores and exclusive liquor stores. In all other cities, villages and boroughs the number of "Off sale" licenses to be issued therein shall be determined by the local governing body. In all cities, villages and boroughs other than cities of the first class "Off sale" licenses shall be issued only to proprietors of drug stores and exclusive liquor stores. In any city, village, or borough of less than 1,000 population "Off sale" licenses may be issued to "On sale" licensees. In any village containing less than 500 inhabitants, according to the 1930 federal census, which is situated in a county having an assessed valuation, exclusive of money and credits, of not less than \$12,000,000 nor more than \$15,000,000 and having a population, according to the 1930 federal census, of not less than 29,000 nor more than 30,000 and containing not less than 16, nor more than 17, full and fractional congressional townships, not more than two "off sale" licenses may be issued therein.

Subd. 12. The license fees to be paid before the issuance of licenses shall be as follows:

(a) 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.

(b) Any wholesaler shall pay to the state an annual license fee in the sum of \$2,500, except that wholesalers of beer containing more than 3.2 per cent of alcohol by volume, shall pay to the state an annual license fee of \$250.

(c) Any manufacturer of wines containing not more than 24 per cent of alcohol by volume shall pay to the state an annual license fee of \$1,000; and any wholesaler of wines containing not more than 24 per cent of alcohol by volume shall pay to the state an annual license fee of \$1,000. No person or corporation licensed under the provisions of clauses (a) and (b) to manufacture or sell intoxicating liquors at wholesale may be licensed to manufacture or sell wines at wholesale, directly or indirectly or through a subsidiary or affiliate corporation or by any officer, director, stockholder or partner thereof, nor shall any person or corporation licensed to manufacture wines or sell wines at wholesale as provided in this clause be granted a license to manufacture or to sell intoxicating liquors at wholesale directly or indirectly or through a subsidiary or affiliate corporation or by any officer, director, stockholder or partner thereof. The provisions of clause (c) shall take effect and be in force from and after July 1, 1947.

(d) The maximum license fee for an "Off sale" license in the cities of the first class shall be the sum which, together with any occupation tax that may be imposed by a municipality issuing said "Off sale" license, will not exceed the sum of \$1,000 annually; 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; in all cities and villages with a population between 5,000 and 10,000, the maximum license fee shall be \$150; in all cities, villages and boroughs of 5,000 population, or less, the maximum license fee shall be \$100. All such license fees for "Off sale" licenses shall be payable to the municipalities issuing the license. Where such licenses shall be issued for less than one year, a fee may be a pro rata share of the annual license fee.

Subd. 13. In any city or village which has established a municipal "Off sale" liquor store since January 1, 1940, any duly organized club which prior to January 1, 1940, held a club license, either under this section or pursuant to Laws 1939, Chapter 154, shall be entitled to a new "On sale" license, notwithstanding the provisions herein contained.

Subd. 15. 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.

Subd. 16. No municipality shall engage in the sale of intoxicating liquors to the exclusion of private interests without first purchasing the stock, equipment and other tangible personal property of such private liquor establishments and reimbursing the private owner or owners for the property thereby divested or rendered unproductive therein by the act of such municipality in the creation of

340.111 INTOXICATING LIQUORS

2650

said municipal liquor store; provided, that this subdivision shall not alter the act of any municipality in the past nor shall the same be retroactive as to property rights heretofore divested or rendered unproductive by any act of any municipality in the creation of a municipal liquor store prior to the passage of Laws 1945, Chapter 417. In the event that no agreement can be reached between said interested parties as to the value of the stock, equipment, and tangible personal property affected by said act of such municipality or other governing body, then, and in that event, the same shall be submitted to arbitration in accordance with the provisions of Minnesota Statutes 1941, Chapter 572.

[*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; 1941 c 4; 1941 c 34; 1941 c 359; 1941 c 485; 1943 c 501 s 1; 1943 c 599; 1945 c 8 s 1; 1945 c 162 s 1; 1945 c 227 s 1; 1945 c 247 s 1; 1945 c 417 s 1; 1945 c 482 s 1; 1947 c 223 s 1; 1947 c 528 s 1; 1949 c 265 s 1; 1949 c 626 s 1] (3200-25)

340.111 ADDITIONAL "ON SALE" LICENSES IN CERTAIN CITIES. In any city of the fourth class not contiguous to a city of the first class, operating under a home rule charter, having a population exceeding 5,000, according to the last federal census, located in a county containing not less than 38,000, nor more than 42,000, inhabitants, according to the last federal census, and containing not less than 24, nor more than 25, full and fractional congressional townships, there may be issued, in addition to the "on sale" licenses provided in section 340.11, one "on sale" license to an hotel which operates a dining room serving meals regularly and which contains not less than 50 sleeping rooms; provided, that upon the expiration of the "on sale" liquor licenses heretofore issued by such city of the fourth class, no more than four thereof, in addition to the license authorized by this section, may be thereafter issued by such city.

[1943 c. 429 s. 1]

340.112 WHICH LICENSE FEE REFUNDED. In case during the term of any "off sale" or "on sale" non-intoxicating malt, or intoxicating, liquor license, the place of business of any licensee shall be destroyed or so damaged by fire, or otherwise, that the licensee shall cease to carry on the licensed business, or in case the business of the licensee shall cease by reason of his illness or death or if it shall become unlawful for the licensee to carry on the licensed business under his license, except when such license is revoked, the licensing authority may upon the happening of any such event refund to the licensee or to his estate such part of the license fee paid by him as corresponds to the time such license had yet to run. In case of the death of any licensee of any "off sale" or "on sale" non-intoxicating malt or intoxicating liquor, his personal representative is hereby authorized to continue operation of said business for not more than 90 days after the death of such licensee. This section shall apply to licenses issued after January 1, 1944.

[1945 c. 226 s. 1]

340.113 IMPORTERS OF INTOXICATING LIQUORS.

Subdivision 1. Licenses. No intoxicating liquor or ethyl alcohol shall be shipped into this state by any distiller, rectifier, winer, or wholesale distributor, or any other person, to any licensed Minnesota manufacturer or wholesale dealer unless and until such distiller, rectifier, winer, wholesale distributor, or such other person has secured a license from the liquor control commissioner permitting him so to do.

Subd. 2. Issuance of licenses. Such licenses shall be issued by the liquor control commissioner for the term of one year, and must be renewed annually. Application for such a license shall be made to the liquor control commissioner. The form of application shall contain an agreement on the part of the applicant that he will observe all of the laws of this state relating to the importation and sale of intoxicating liquor, and such other information and statements as the liquor control commissioner may require. Any person who has violated any of the laws of this state relating to intoxicating liquor shall not be entitled to such a license. The fee for each annual license shall be \$50 which shall accompany the application for license.

Subd. 3. Licenses revoked for cause. Licenses may be revoked by the liquor control commissioner for cause. Causes for the revocation thereof shall be any violation by the licensee of any law of this state relating to intoxicating liquor, or other conduct which justifies the commissioner in the belief that the licensee has sought to avoid or evade compliance with such laws.

Subd. 4. **Fees paid into revenue fund.** All sums collected by the liquor control commissioner from license fees hereunder shall be paid into the general revenue fund of the state.

Subd. 5. **Violation.** Any distiller, rectifier, winer, wholesale distributor, or other person who ships or causes to be shipped into this state any intoxicating liquor or ethyl alcohol, without having a license so to do, as herein provided, shall be guilty of a gross misdemeanor and punished as prescribed by law.

Subd. 6. **Malt beverages excluded.** Nothing in this section includes malt beverages, regardless of alcoholic content.

[1949 c. 307]

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 the commissioner. 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 the liquor control commissioner, 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 the liquor control commissioner 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 the liquor control commissioner 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 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 a liability insurance policy or, in lieu thereof, cash or United States Government 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 or policy 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 a liability insurance policy 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.

In any municipality, when the local governing body thereof shall so provide, a liability insurance policy may be filed in lieu of the bond or cash security, referred to above. Such liability insurance policy shall be in the amount of \$10,000 coverage for one person and \$20,000 coverage for more than one person, and shall specifically provide for the payment by the insurance company on behalf of the insured of all sums which the insured shall become obligated to pay by reason of liability imposed upon him by law for injuries or damage to persons, other than employees, including the liability imposed upon the insured by reason of Minnesota Statutes 1941, Section 340.95. Such liability insurance policy shall further provide that no cancelation of the same for any cause, can be made either by the insured or the insurance company without first giving ten days' notice to the municipality in writing of intention to cancel the same, addressed to the city clerk of the municipality. The operation of such "Off sale" or "On sale" business without having on file at all times with the municipality the liability insurance policy herein referred to shall be grounds for immediate revocation of the license. No payment of any claim by the insurance company shall, in any manner, decrease the coverage provided for in respect to any other claim or claims brought against the insured or company thereafter. It shall not be necessary when the local governing body of any municipality provides for the filing of such liability insurance policy instead

of the bond or cash deposit herein referred to, that such policy include as conditions therein the conditions required in bonds for such dealers and set out in (a), (b), (c), and (d) hereinafter.

Bonds of manufacturers, wholesalers and common carriers shall run to the State of Minnesota, 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:

- (a) That the licensee will obey the law relating to such licensed business;
- (b) That the licensee shall pay to the state when due all taxes, license fees, penalties and other charges payable by him under this act, or any other law relating to the manufacture, distribution or sale of intoxicating liquor;
- (c) 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:

- (a) That the licensee will obey the law relating to such licensed business;
- (b) That the licensee will pay to the municipality when due all taxes, license fees, penalties and other charges provided by law;
- (c) 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 or policy shall be forfeited to the municipality in which such license was issued;
- (d) That the licensee, will pay to the extent of the principal amount of such bond or policy, and 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 "(d)" may be had from the surety on this bond or policy. The amount specified in such bond or policy is declared to be a penalty, the amount recoverable to be measured by the actual damages; provided, however, that in no case shall such surety be liable for any amount in excess of the penal amount of the bond or policy.

All such bonds or policies 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 or policy for violation of law, the district court of the county wherein such licensed business was carried on may forfeit the penal sum of said bond or policy, or any part thereof, to the state or municipality named as obligee in such bond or policy.

[*Ex. 1934 c. 46 s. 6; 1943 c. 501 s. 2; 1943 c. 568 s. 1; 1945 c. 313 s. 1*] (3200-26)

340.13 REVOCATION OF LICENSES. Subdivision 1. 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 or by the liquor control commissioner after hearing. No manufacturer or wholesaler shall either 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 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 shall have 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; provided, that 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, except that in cities of the fourth class and villages where the applicant for such "off sale" license shall also have for such place a legally issued "on sale" intoxicating liquor license.

Subd. 2. A license shall be non-transferable without the consent of the authority issuing it, and shall be 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 who shall be of good moral character and repute, nor to any person who shall be hereafter convicted of any wilful violation of any law of the United States or the State of Minnesota 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.

Subd. 3. 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; 1943 c. 501 s. 3*] (3200-27)

340.14 REGULATIONS. Subdivision 1. **Hours of sale.** No sale of intoxicating liquor shall be made after one a. m. on Sunday, nor between the hours of one a. m. and three o'clock p. m. on any Memorial Day, nor between the hours of one a. m. and 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 between the hours of one a. m. and eight o'clock a. m. on any weekday. No "off sale" shall be made before eight o'clock a. m. or after ten o'clock p. m. of any day. However, in cities of the first class and in all cities, villages, and boroughs located within a radius of 15 miles of cities of the first class, "off sale" may be made only until 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 Years 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. It shall be beyond the power of any municipality of this state to authorize or permit the sale of intoxicating liquors when such sale is prohibited by this section, however, any municipality may further limit the hours of sale of intoxicating liquors, provided that such further restricted hours for "on sale" shall apply to both intoxicating liquor and non-intoxicating malt liquors. 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.

Subd. 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.

The retail sale for beverage purposes of ethyl alcohol or neutral spirits, or substitutes therefor, possessing the taste, aroma, and characteristics generally attributed to ethyl alcohol or neutral spirits, as such, is hereby prohibited. Nothing in this paragraph shall be construed to prohibit the manufacture or sale of other products obtained by the use of ethyl alcohol or neutral spirits as defined in the Standards of Identity for distilled Spirits, Article Two (2), Regulations number five (5), Federal Alcohol Administration.

Subd. 3. **Limitation on the consumption or display of intoxicating liquors.** It is unlawful for any person to consume or display intoxicating liquors in any place where the public is permitted to frequent, between the hours of 12 o'clock midnight and 8 a. m., unless such place has a license to sell intoxicating liquors. It is unlawful for any proprietor of any public place of business, other than a holder of an intoxicating liquor license, to permit the consumption or displaying of intoxicating liquors upon such premises between the hours of 12 o'clock midnight and 8 a. m., or in any manner to serve or permit the serving of liquids for the purpose of mixing with intoxicating liquors between such hours, and the serving of any such liquids for the purpose of mixing with intoxicating liquors is prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to the provisions of this subdivision. Any violation of this subdivision is a misdemeanor.

[*Ex 1934 c 46 s 8; 1939 c 101 s 2; 1939 c 429; 1941 c 415; 1941 c 503; 1945 c 326 s 1; 1949 c 654 s 3*] (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; 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*] (*§200-29*)

340.16 LICENSES NOT TO ISSUE IN CERTAIN MUNICIPALITIES; 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, inhabitants, 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 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 said question is again in like manner submitted. Any city in any such county may hold such an election by following as near as possible the procedure prescribed in sections 340.22 to 340.24. If the voters of any city in any such county of the number required in section 340.22 for the petitioning of the submission at a regular city election of the question of granting license shall petition the city council to call a special election on the question of establishing a municipally-owned liquor store in such city, the city council shall call such special election and set a date therefor not less than 20 or more than 30 days after the filing of such petition with the city clerk. If such petition is filed less than 90 days before a regular city election, such special election shall be held at the same time as the regular city election. Such special election shall be of the same force and effect as if held at a regular city election, and, except as herein provided, the procedure to be followed in connection therewith shall be as nearly as possible the procedure herein required if the election on the question of establishing a municipally-owned liquor store were held at the time of the regular city election. 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; 1949 c. 354 s. 1*] (*§200-30*)

340.161 MUNICIPAL LIQUOR STORES. Any city or village located in any county in this state, having not less than 24, nor more than 28, full or fractional townships, a population of more than 14,500, and less than 15,000, and an assessed valuation, exclusive of money and credits, of less than \$5,000,000, and more than \$4,500,000, may hold an election for the establishment of a municipal liquor store as provided by Laws 1939, Chapter 395, following as nearly as possible the procedure described in sections 340.22 to 340.24.

[*1941 c. 401 s. 1*]

340.162, Subd. 1. [Renumbered 447.045, Subd. 7]

340.162, Subd. 2. [Repealed, 1949 c. 531 s. 2]

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 or any church or established religious organization of wine for sacramental purposes. Any person may be licensed to import, purchase, and to sell wine to be used exclusively for sacramental purposes, but upon condition that such wine shall be sold only to a rabbi, priest, minister, or pastor of a duly organized 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 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; LICENSE. Subdivision 1. The provisions of sections 340.07 to 340.40 shall not apply to medicines as defined herein, 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.

Subd. 2. 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 prescriptions shall state the name and address of the person for whom the same is prescribed, the kind and quantity of liquor, and such prescription shall be signed in ink by the physician, dentist, or veterinarian issuing the same, and shall 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.

Subd. 3. 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 by 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.

Subd. 4. 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 sale, 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 village 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 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 THE 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 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 said 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*)

340.245 LIMITATION UPON ESTABLISHMENT OF MUNICIPAL LIQUOR STORE. When an election shall be held in any county on the question whether the sale of intoxicating liquors shall be permitted within such county and the results of such election is in the negative, and when a majority of the votes cast at such election by the voters of any city or village 90 per cent of the area and 90 per cent of the population of which lies within such county and the remainder of which lies in an adjoining county are against permitting the sale of intoxicating liquors in such county, it shall thereafter be unlawful for any such city or village to establish, maintain or operate a municipal liquor store or issue intoxicating liquor licenses therein until the decision of the voters at such election shall have been reversed at a subsequent county option election.

[*1949 c 221 s 1*]

340.25 LOCAL OPTION ELECTION 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 (1) whether the sale of intoxicating liquors shall be prohibited therein, or (2), in any county wherein such sale is prohibited, whether the sale of intoxicating liquors at off sale shall be permitted within the county through the establishment of municipal liquor stores, 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 same 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; 1945 c. 305 s. 1*] (*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 (1) whether the sale of intoxicating liquor shall be prohibited therein, or (2), whether the sale of intoxicating liquors shall be permitted within the county through the establishment of municipal liquor stores, 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 under the provisions of sections 340.07 to 340.40 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; 1945 c. 305 s. 2] (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 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. Subdivision 1. 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.

Subd. 2. The council in each 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.

Subd. 3. 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, and speak the English language understandingly. No additional judge or clerks to be known as ballot judge or clerks shall be appointed. When 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, shall 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 elections hereunder, except as to matters otherwise provided for, 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 offers to vote in any district 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 their 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 appear 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 proceedings 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 said 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)

340.353 CHANGE OF POPULATION; OPERATION OF MUNICIPAL LIQUOR STORE. Any municipality in which an authorized liquor store has been established, operating within the limits of any county containing a city having not less than 225,000 inhabitants, or within counties contiguous thereto, may continue to operate such municipal liquor store notwithstanding any subsequent change in population; provided, that within one year after the effective date of the census by which such

municipality exceeds 10,000 in population, the question, "Shall the city (village) close its municipal liquor store and issue private liquor licenses instead?" is submitted to the voters of the city or village at a general or special municipal election and a majority of the voters voting upon the question at the election vote in the affirmative upon the question. The notice of the election shall show that the question, "Shall the city (village) close its municipal liquor store and issue private liquor licenses instead?" is to be submitted to the electors at the election.

[1949 c 124 s 1]

340.36 OFFENSES IN PROHIBITION TERRITORY; UNEXPIRED LICENSES; LIQUOR MANUFACTURED AND STORED; PRESCRIPTIONS BY PHYSICIANS.

Subdivision 1. 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 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 and 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.

Subd. 2. 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 election held hereunder 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

MINNESOTA STATUTES 1949

2663

INTOXICATING LIQUORS 340.40

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 OPERATIVE EXCEPT AS HEREIN PROVIDED. 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:

PETITION

To the auditor of county, Minnesota:

The undersigned legal voters of said county pray that an election be held in the said 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.	No.	Residence
----------------	-----	-----	-----------

ORDER

State of Minnesota, }
County of } ss. .

A petition having been filed with the undersigned auditor of said county, signed by a number of qualified electors of said county equal to more than 25 per cent of the total number of votes cast in said county for governor at the last preceding general election, praying that an election be held in the said 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 said 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 said 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 said 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 said 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 said 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 said election was a tie, if such was the fact).

Dated this day of, 19.....

.....
.....
.....
County canvassers.

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

340.401 DEFINITIONS FOR SECTIONS 340.401 TO 340.407. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in subdivisions 2 to 9, for the purposes of sections 340.401 to 340.407, shall be given the meanings subjoined to them.

Subd. 2. **Intoxicating malt liquor.** "Intoxicating malt liquors" means any liquor capable of being used for beverage purposes and which is produced wholly or in part from brewing of any grain or grains, or malt or malt substitute, containing in excess of 3.2 per cent of alcohol by weight.

Subd. 3. **Brewer.** "Brewer" means any person who shall manufacture for the purpose of sale, barter, exchange, or transportation any intoxicating malt liquor.

Subd. 4. **Wholesaler.** "Wholesaler" means any person, other than a brewer, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in intoxicating malt liquor in quantities of not less than five standard gallons to the same person at one time, not to be consumed in or about the premises where sold.

Subd. 5. **Retailer or retail dealer.** "Retailer" or "retail dealer" means any person who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in intoxicating malt liquor in quantities of less than five standard gallons to the same person at one time.

Subd. 6. **Person.** "Person" means any individual, corporation, firm, partnership, or association and includes the meaning extended thereto by section 645.44, subdivision 6.

Subd. 7. **Commissioner.** "Commissioner" means the liquor control commissioner of the State of Minnesota.

Subd. 8. **Application.** "Application" means a formal written request for the issuance of a license filed with, and in the form prescribed by, the commissioner.

Subd. 9. **License.** "License" means an authorization in writing issued by the commissioner relating to the manufacture or wholesale of intoxicating malt liquor.

[1943 c. 460 s. 1]

340.402 LICENSES; FEES. No person shall engage in business as a brewer or wholesaler of intoxicating malt liquor nor shall any person, directly or indirectly, by any device, manufacture for sale or sell at wholesale any intoxicating malt liquor unless licensed to do so by the commissioner.

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

The annual fees for license are: for a brewer, the sum of \$500; for a wholesaler, the sum of \$125.

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

[1943 c. 460 s. 2]

340.403 BOND AND LICENSE. Subdivision 1. **Filing and approval of bond.** Every applicant for a license under the provisions of sections 340.401 to 340.407 shall, at the time of filing his application, file with the commissioner a bond running to the State of Minnesota, with corporate surety, to be approved by the commissioner before granting such license. The bond of a brewer shall be in the sum of \$5,000 and of a wholesaler in the sum of \$1,000. Any applicant may, in lieu of such bond, make a deposit with the commissioner of cash or United States government bonds in the same amount as that hereinbefore required for bond of such applicant.

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

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

Subd. 4. Period of license. All licenses shall be issued for a period of one year. No person now holding a license for the manufacture or sale at wholesale of intoxicating malt liquor shall be required to obtain a license under the provisions of sections 340.401 to 340.407 until the expiration of the period for which such existing license was issued but such licensee shall be subject to all other provisions thereof.

[1943 c. 460 s. 3]

340.404 SUSPENSION OR REVOCATION OF LICENSES. Subdivision 1. **To remain in effect.** Any license issued under the provisions of sections 340.401 to 340.407 and any license heretofore issued for the manufacture or sale at wholesale of intoxicating malt liquor shall remain in effect during the period for which such license was issued unless surrendered by the licensee or suspended or revoked by the commissioner in the manner provided therein.

Subd. 2. Authority to suspend or revoke. The commissioner is hereby authorized, after notice to the licensee and an opportunity to be heard, upon proof of wilful violation by the licensee of any provisions of sections 340.401 to 340.407 or of any prior or subsequent violation of any law of this state relating to the manufacture or sale at wholesale of intoxicating malt liquor, to suspend for a period not exceeding 60 days or to revoke such license whether issued under the provisions thereof or issued prior to the passage thereof.

Subd. 3. Investigation; complaint; notice; hearing. It shall be the duty of the commissioner, upon receiving information of violation by any licensee of any provisions of sections 340.401 to 340.407 or of any prior or subsequent violation of any law of this state relating to the manufacture or sale at wholesale of intoxicating malt liquor, to make an immediate investigation thereof. If, after such investigation, the commissioner shall determine that there is probable cause to believe that the licensee has willfully violated the provisions of any law of this state relating to the manufacture or sale at wholesale of intoxicating malt liquor and that the violation is of such a nature as to warrant suspension or revocation of license, he shall make and file a complaint, in writing, which shall state the facts constituting the alleged violation of the law. A copy of the complaint, together with a notice of hearing thereon, shall be served upon the licensee in the manner provided by statute for the service of a summons in a civil action. The notice shall state the time of hearing which shall be not less than 20 days after the service of the notice. All hearings shall be open to the public and held at the office of the commissioner. For the purpose of conducting these hearings the commissioner is hereby authorized to subpoena witnesses and administer oaths.

Subd. 4. Findings of fact; order. After any hearing the commissioner shall make and file findings of fact as to each violation of law alleged in the complaint and his order dismissing the proceedings or suspending or revoking the license. The findings of fact and order of the commissioner shall be served upon the licensee in the manner provided by statute for the service of a summons in a civil action. If the order suspends or revokes the license, such suspension or revocation shall take effect and be in force and the right of the licensee to operate thereunder shall terminate ten days after the service of the order of the commissioner, except in the event of a stay on appeal as hereinafter provided.

Subd. 5. Suspension. When, in any proceedings under this section, the commissioner shall find that the licensee has violated any provision of any laws of this state relating to the manufacture or wholesale of intoxicating malt liquor but that the nature of such violation or the circumstances thereof are such that a suspension of the license would be adequate, he may, instead of revoking the license, suspend it for a period not exceeding 60 days. During the period of suspension the licensee shall exercise no rights under the license.

Subd. 6. Appeal to district court. Any licensee whose license is suspended or revoked by the commissioner may appeal from the order of suspension or revocation to the district court of the county in which the licensee maintains his principal place of business, which appeal shall be taken by service of written notice thereof upon the commissioner within ten days after service upon the licensee of the order of suspension or revocation appealed from and by filing with the clerk of the district court, within ten days after service, the notice of appeal with proof of service thereof upon the commissioner. The perfecting of an appeal operates to stay all proceedings until the final determination thereof. In the notice of appeal and in the proceedings upon appeal the commissioner shall be named as plaintiff and the licensee as defendant. Upon the appeal being perfected, the commissioner shall forthwith certify to the court the complete record in the proceedings and the court shall thereupon fix a time and place for hearing, due notice of which shall be given to the parties. Upon the appeal to the district court the hearing shall be de novo to the court without a jury and conducted in the manner provided by statute for the trial of a civil action. The court shall make its findings of fact and its order either dismissing the proceedings or suspending the license for a period not exceeding 60 days or revoking the license.

Subd. 7. Appeal to supreme court. Either party may appeal from the final judgment of the district court, or from any final order therein, in the same manner as in a civil action, within ten days after service of notice of the filing of such judgment or final order. No bond on appeal shall be required. The perfecting of an appeal to the supreme court operates to stay all proceedings until the final determination of the appeal. The commissioner shall not refuse to issue a license to any licensee during the time that an appeal from an order of suspension or revocation of license is pending.

Subd. 8. License after revocation. When any license has been revoked no license shall be issued to such person within one year from the date of such order of revocation or, in the event of an appeal, within one year from the date of the judgment or final order of the court affirming such order of revocation.

[1943 c. 460 s. 4]

340.405 BREWERS OR WHOLESALERS NOT TO BE RETAILERS. No brewer or wholesaler shall, either directly or indirectly, own or control, or have any financial interest in, any retail business selling intoxicating malt liquor; but this restriction shall not be construed to deny such person the right to use or have his property rented for such purpose in any case where the brewer or wholesaler was a bona fide owner of the premises prior to November 1, 1933. No brewer or wholesaler shall, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder, or partner thereof, give, lend, or advance any money, credit, or other thing of value to any retailer or to any person for the benefit or relief of any retailer, nor furnish, give, lend, lease, or sell to any person any furniture, fixtures, fittings, or equipment; nor shall any brewer or wholesaler, directly or indirectly, have any interest in, or pay for, any retail license, or advance, furnish, lend, or give money for the payment of retail license fees or any expense incident to the obtaining of such license; nor shall any brewer or wholesaler become bound in any manner, directly or indirectly, for the repayment of any loan made to, or the fulfillment of any financial obligation of, any retailer, except that brewers or wholesalers may: (1) furnish, lend, or rent outside signs to retailers, provided the

cost of such signs, in the aggregate, furnished, lent or rented by any brewer or wholesaler to any retailer, including signs authorized by section 340.02, shall not exceed \$100, exclusive of erection, installation and repair charges; but nothing herein shall be construed as affecting signs owned and located in the state on the effective date hereof by any such brewer or wholesaler; (2) furnish inside signs, miscellaneous advertising matter and other items not to exceed, in the aggregate, including similar items authorized by section 340.02, a cost of \$25 in any calendar year to any one retailer; (3) furnish or maintain for retailers such equipment as is designed and intended to preserve and maintain the sanitary dispensing of intoxicating malt liquors, provided the expense incurred thereby does not exceed the sum of \$25 per tap per calendar year, no part of which shall be paid in cash to any retailer; (4) acquire within ten days after the effective date hereof any furniture, fixtures, fittings, and equipment, or any valid lien thereon or interest therein, which were actually installed on the premises of any retailer prior to the effective date hereof; (5) lease or lend to the owner of the premises, or to any retailer now or hereafter occupying the premises, any furniture, fixtures, fittings, and equipment actually located on the premises on the effective date hereof. Any such brewer or wholesaler who, within ten days after the effective date hereof, owns any furniture, fixtures, fittings, or equipment in possession of any retailer on the effective date hereof may, within 90 days after said effective date, sell the same to such retailer only for cash on delivery and deliver a bill of sale to the same.

[1943 c 460 s 5; 1949 c 475 s 2]

340.406 EXCLUSIVE CONTRACTS FORBIDDEN. No brewer or wholesaler shall hereafter, directly or indirectly, or through a subsidiary or affiliate corporation, or by any officer, director, stockholder, or partner, enter into any agreement, oral or written, whether or not incorporated in any chattel mortgage, conditional sales contract, bill of sale, lease, land contract, mortgage, deed, or other instrument, wherein and whereby any retailer is required to purchase the intoxicating malt liquor of any brewer to the exclusion, in whole or in part, of the products of other brewers.

[1943 c. 460 s. 6]

340.407 VIOLATORS; VIOLATIONS. Any retailer who is a party to any violation of section 340.405 or section 340.406, or who received the benefits thereof, is equally guilty of a violation of the provisions thereof and subject to the penalty herein provided.

Any person who violates the provisions of sections 340.401 to 340.407 is guilty of a gross misdemeanor and each violation constitutes a separate offense.

[1943 c. 460 ss. 7, 8]

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 [Obsolete]

340.43 [Obsolete]

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" mean 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, offered, or exposed for sale, kept in possession with intent to sell, or served in any premises, unless there shall be placed upon said 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*)

340.461 LABELS FOR INTOXICATING LIQUOR CONTAINERS. Subdivision

1. **Contents.** Each container of intoxicating liquor holding one-half pint or more, except containers of fermented malt beverages and of wine designed and intended exclusively for sacramental purposes, shall bear a label to be known as a certification label containing the following printed language:

"The manufacturer of the contents of this container certifies that the liquor herein contains no matter deleterious or injurious to health, and that the contents are as described on the label or labels affixed hereto, as required by the laws of the United States."

Such certification labels must be fixed on the container itself, and not on any wrapper or container covering.

Subd. 2. **Form.** The form of such certification labels shall be designed by the commissioner, and shall be provided by and printed under the supervision of the commissioner of administration in such quantity as may be required. Such certification labels may be combined with and issued in combination with intoxicating liquor excise tax stamps, if the commissioner, the state treasurer, and the commissioner of administration so determine. The commissioner of administration shall prescribe such requirements and provide such supervision of the manufacture and delivery thereof as may be necessary to prevent forgery, misappropriation, or fraud. The labels so provided shall be delivered to the state treasurer for sale and sold by him at a cost of one cent each, and the proceeds arising from the sale thereof shall be paid into the general revenue fund of the state.

Subd. 3. **Purchasers.** Such certification labels shall be sold only to distillers, importers, winers, or duly licensed manufacturers, wholesalers, and common carriers licensed to sell intoxicating liquor.

Subd. 4. **Misdemeanors.** Any sale of intoxicating liquor in this state to which no such certification label is attached is a gross misdemeanor and punishable as provided by law.

Subd. 5. **Forging of labels.** Any person who, with intent to defraud, shall forge any such certification label, shall be guilty of forgery in the third degree and punished accordingly.

[*1943 c. 113*]

EXCISE TAX

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:

- (1) On all unfortified wines, the sum of 20 cents per gallon;
- (2) On all fortified wines from 14 to 21 per cent of alcohol by volume, the sum of 60 cents per gallon;
- (3) On all fortified wines from 21 to 24 per cent of alcohol by volume, the sum of \$1.20 per gallon;
- (4) On all fortified wines containing more than 24 per cent of alcohol by volume, the sum of \$2.50 per gallon;
- (5) On all natural and artificial sparkling wines containing alcohol, the sum of \$2.50 per gallon;
- (6) On all other distilled spirituous liquors, liqueurs, cordials, and liquors designated as specialties regardless of alcoholic content, the sum of \$2.50 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; provided, however, that the contents of miniatures containing two fluid ounces or less shall be taxed 6¼ cents.

Subd. 2. **On fermented malt beverages.** An excise tax is hereby assessed, imposed, and levied upon the sale, either directly or indirectly of fermented malt beverage.

ages 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 proportional rate for fractional parts thereof. All the receipts from these taxes shall be paid into the general revenue fund by the liquor control commissioner.

Subd. 3. Veterans bonus excise tax. The several rates of taxation levied by subdivision 1 on all intoxicating liquors sold in this state are increased ten per cent, except on intoxicating liquors which are within the state on June 30, 1949. On or before July 10, 1949, every manufacturer, distiller, or wholesaler shall file with the commissioner a verified itemized inventory of all stamps in his possession outside of the state on June 30, 1949, which are unaffixed or affixed to containers of intoxicating liquors outside of the state and of unaffixed stamps in his possession within the state on June 30, 1949, and shall pay to the state treasurer ten per cent of the total tax value of all stamps so inventoried as payment of the increases imposed by this subdivision of the several rates of taxation on all intoxicating liquors to which such stamps are affixed levied by subdivision 1 and shall thereby increase the tax value of the stamps so inventoried by ten per cent of their face value. Every manufacturer, distiller, or wholesaler shall pay to the state treasurer for all stamps purchased after June 30, 1949, in addition to the face tax value of the stamps so purchased, a sum equal to ten per cent of the face value of the stamps so purchased. On and after July 1, 1949, all stamps sold by the state treasurer shall have a tax value which is ten per cent greater than their face tax value. This subdivision shall be effective as of July 1, 1949, and shall expire on December 31, 1958, except as to the collection of taxes theretofore levied thereunder and unpaid. The increase in the several rates of taxation levied by this subdivision on all intoxicating liquors sold in this state shall hereafter be known as the surtax on intoxicating liquors. The proceeds of the surtax imposed by this subdivision are pledged to the payment of the bonds authorized by Laws 1949, Chapter 642, and the surtax shall not be reduced below ten per cent of the respective rates as they are now fixed by law on intoxicating liquors, sold in this state. Notwithstanding the provisions of subdivision 1, the proceeds of the surtax imposed by this subdivision shall be deposited in the state treasury to the credit of the veterans compensation fund.

Subd. 4. Veterans bonus liquor surtax. The several rates of taxation levied by subdivision 2 on the sale, either directly or indirectly, of fermented malt beverages other than for shipment in interstate or foreign commerce are increased ten per cent, except on fermented malt beverages which are within the state on June 30, 1949. On or before July 10, 1949, every brewer or wholesaler shall file with the commissioner a verified itemized inventory of all stamps in his possession outside of the state on June 30, 1949, which are unaffixed or affixed to containers of fermented malt beverages outside of the state and of unaffixed stamps in his possession within the state on June 30, 1949, and shall pay to the state treasurer ten per cent of the total tax value of all stamps so inventoried as payment of the increases imposed by this subdivision of the several rates of taxation on all fermented malt beverages to which such stamps are affixed levied by subdivision 2 and shall thereby increase the tax value of the stamps so inventoried by ten per cent of their face tax value. Every brewer or wholesaler shall pay to the state treasurer for all stamps purchased after June 30, 1949, in addition to the face tax value of the stamps so purchased, a sum equal to ten per cent of the face tax value of the stamps so purchased. On and after July 1, 1949, all stamps sold by the state treasurer shall have a tax value which is ten per cent greater than their face tax value. This subdivision shall be effective as of July 1, 1949, and shall expire on December 31, 1958, except as to the collection of taxes theretofore levied thereunder and unpaid. The increases in the several rates of taxation levied by this subdivision on the sale, either directly or indirectly, of fermented malt beverages other than for shipment in interstate or foreign commerce shall hereafter be known as the surtax on fermented malt beverages. The proceeds of the surtax imposed by this subdivision are pledged to

the payment of the bonds authorized by Laws 1949, Chapter 642, and the surtax shall not be reduced below ten per cent of the respective rates as they are now fixed by law on the sale, either directly or indirectly, of fermented malt beverages other than for shipment in interstate or foreign commerce. Notwithstanding the provisions of subdivision 2, the proceeds of the surtax imposed by this subdivision shall be deposited in the state treasury to the credit of the veterans compensation fund.

[*Ex*1934 c 58 s 4; *Ex*1937 c 8 s 1; 1941 c 47 s 1; 1943 c 309 s 1; 1947 c 601 s 1; 1949 c 441 s 1; 1949 c 642 s 18] (§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.** 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.

Subd. 2. **Purchase.** 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 sections 340.44 to 340.56 on sales made for resale 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 denominations. 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] (§200-63)

NOTE: The provisions of section 6.22 relating to the sale of excise tax stamps supersedes the provisions of section 340.49.

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] (§200-64)

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 checked 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 places 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 places upon any label a permit number not registered in the office of the commissioner, who falsely or fraudulently makes, forges, alters, or counterfeits any stamp prescribed by sections 340.44 to 340.56, is guilty of a gross misdemeanor.

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

340.54 UNSTAMPED LIQUOR CONFISCATED. The liquor control commissioner and his designated inspectors and employees are hereby authorized and empowered to seize and confiscate in the name of the State of Minnesota any 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, and shall seize and confiscate any material or apparatus used in the illegal manufacture of intoxicating liquor or any vehicle used in the transportation of such intoxicating liquor, material, or apparatus in possession, under control, sold, or transported in any manner in violation of sections 340.07 to 340.96.

[*Ex. 1934 c. 58 s. 10; 1945 c. 310 s. 1*] (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, is guilty of a felony.

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

340.56 OFFENSES; MISDEMEANOR. Any person who violates any of the provisions of sections 340.44 to 340.56 for which specific penalty is not therein provided is 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; and provided further, that when real property or the buildings thereon, not within such prohibited area is taken for a public purpose by eminent domain proceedings and such real property was actually and lawfully used for the sale of intoxicating liquor five years immediately prior to such taking, the governing body may, in addition to the number of licenses permitted in such prohibited area, reissue such license at any location in said city, which location shall be subject to all limitations, now prescribed by any law of this state, provided, that no such license shall be issued or reissued at any location situated within 1500 feet of any public bathing beach.

[1935 c 78 s 1; 1949 c 536 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 signed by five 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 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. Subdivision 1. **Paid into state treasury.** Except as provided in the following subdivisions, 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.

Subd. 2. Allocation of 30 per cent of taxes collected. 30 per cent of the proceeds of the taxes collected under section 340.07, subdivision 1, shall be set aside and credited to a separate account and apportioned as provided in subdivision 3 to the several counties, cities, villages, and boroughs. Each county, city, village, and borough shall receive from the apportionment account an amount bearing the same relation to the total amount to be apportioned as its population bears to the total population of all the counties, cities, villages, and boroughs of the state; provided that for the purpose of Laws 1947, Chapter 601, the population of the county shall be that part of its population exclusive of the population of the several cities, villages and borough in said county. Each county shall apportion the amount received by it to the various towns of the county in proportion to their population, except that the county shall retain for its use any portion attributable to the population of unorganized territory within the county.

Subd. 3. Apportionment of taxes allocated. On or before February 15, 1948, the state auditor shall apportion the amount which has been credited to the apportionment account prior to January 1, 1948, and issue his warrant in favor of the treasurer of each county, city, village, and borough for the amount to which his political subdivision is entitled. The state auditor shall make a similar apportionment on or before August 15, 1948, of the moneys which have been credited to the apportionment account prior to July 1, 1948; and he shall make a like apportionment on or before February 15 and August 15 in each year after 1948.

Subd. 4. Certified list of counties and municipalities. The secretary of state shall deliver to the state auditor, within 90 days after the passage of Laws 1947, Chapter 601, a certified list of all the counties, cities, villages, and boroughs. In the case of municipalities incorporated since 1940 the population shown shall be that given in the incorporation census. Upon the taking of each federal census, the state auditor shall deliver to the secretary of state a like certificate within 30 days after the governor has filed with him the certified copies of the census obtained from the director of the federal census. Until the receipt of such a certificate, the state auditor shall make his apportionment upon the basis of the population of the various political subdivisions last certified to him as provided for in subdivision 3.

Subd. 5. New municipalities. If any municipality changes its name or is dissolved, or if any new municipality is incorporated, the secretary of state shall immediately certify that fact to the state auditor, indicating in the case of a new municipality the population shown by the census taken before incorporation. If any municipality is consolidated with another municipality, the secretary of state shall likewise certify the fact to the state auditor who shall issue his warrant to the consolidated municipality according to the combined population resulting.

Subd. 6. Cost of government. Expenditures made from amounts paid to any county, city, village, or borough under this section shall not be considered as part of its cost of government within the meaning of any statutory or charter limitation on expenditures.

Subd. 7. [Repealed, 1949 c 501 s 1]

[1935 c 130 s 1; 1947 c 602 s 2] (3200-75)

340.601 EVASION A GROSS MISDEMEANOR. Any person, form or corporation that shall import any intoxicating liquors into this state in quantities in excess of one gallon with intent to evade the tax provisions of Laws 1947, Chapter 601, shall be guilty of a gross misdemeanor, unless such intoxicating liquors have affixed to each container the Minnesota excise tax stamps in denominations required by law; provided, that this restriction shall not apply to the importation of intoxicating liquors destined to duly licensed Minnesota manufacturers or wholesalers of intoxicating liquors.

[1947 c 601 s 3]

340.602 PAYMENT OF CERTAIN TAXES. Any tax due on the effective date of Laws 1947, Chapter 601, on intoxicating liquor in the hands of a wholesaler or retailer intended for resale shall be due and payable on July 1, 1947, except that under such regulations as the commissioner shall prescribe and on furnishing a bond to the State of Minnesota with such surety or sureties and on such conditions as may be satisfactory to the commissioner to insure payment any such tax may

be paid in instalments of \$500 each, or one-fourth of the tax, whichever is greater, as follows: the first instalment on July 1, 1947, the second instalment on October 1, 1947, the third instalment on January 1, 1948 and the last instalment on April 1, 1948.

[1947 c 601 s 4]

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 SHALL BE REGISTERED. No licensed manufacturer or wholesaler shall manufacture or import for sale within the state, any brand of intoxicating liquor such as distilled spirits and wine, or any distilled or vinous liquor designated as a specialty, wherein such liquor is ready for sale for beverage purposes without further processing, unless the label of such brand has been registered with and approved by the commissioner. The commissioner shall hereinafter establish a register for such brand labels, which labels shall be acceptable under the following conditions:

(1) No brand of intoxicating liquor as hereinbefore described shall be manufactured or imported for sale within the state after the passage of this act unless the brand label thereof has been submitted to and approved by the commissioner. The fee for such registration shall be \$10.00 for each brand label;

(2) The same registration and fee shall be required for any brand of liquor as hereinbefore described which has been manufactured or imported for sale within this state and in which the brand label for such brand has been filed with the commissioner and wherein the sale of such brand has been discontinued within the state by the manufacturer or wholesaler for a period of two years.

(3) After the sale of any brand of intoxicating liquor as hereinbefore described has been discontinued within this state for a period of three years by the manufacturer or wholesaler distributing it, said brand and its brand label and any and all registrations thereof in this state shall thereafter be conclusively presumed to have been abandoned by said manufacturer or wholesaler.

(4) The terms "brand" and "brand label," when used herein, shall each be construed to mean and include trademarks and designs used in connection therewith.

(5) All money received by the commissioner under the provisions of this section shall be paid to the state treasurer and such money shall be credited to the general revenue fund.

[1935 c. 390 s. 1; 1943 c. 308 s. 1; 1945 c. 291 s. 1] (3200-78)

DISPOSITION OF SEIZED LIQUOR

340.63 DESTRUCTION OR DISPOSITION OF SEIZED LIQUOR. Subdivision 1. Contingent upon the final determination of any action pending in any court, the liquor control commissioner is hereby directed to dispose of any intoxicating liquor, material, apparatus or vehicle seized by him or his designated inspectors or employees by:

(1) Delivering on written request of the director of public institutions, any liquor, tax exempt, that may be required by any state institution for external or medicinal use by patients thereof or by;

(2) Delivering on written requests of the commissioner of administration any material, apparatus or vehicle for use by any state department, or by;

(3) Selling intoxicating liquor to licensed liquor dealers within the state, or by;

(4) Selling any material, apparatus or vehicle, or by;

(5) Destroying such intoxicating liquor or contraband articles that have no lawful use.

Subd. 2. Any sale of intoxicating liquors, materials, apparatus or vehicles, shall be made only with the written approval of the commissioner of administration and notice of such sales shall be published in one issue of a legal newspaper located in the City of Saint Paul. Sealed bids shall be publicly opened in the office of the liquor control commissioner on a date stated in such publication, which shall not be less than 15 days or more than 30 days after the publication thereof. The net proceeds derived from the sale of such intoxicating liquors or articles shall, after the deduc-

tion of any expense of seizure or sale, be deposited by the liquor control commissioner with the state treasurer and such money shall be credited to the general revenue fund.

Subd. 3. Sales of intoxicating liquor made by the liquor control commissioner, as herein provided, are exempt from the state excise tax if stamps evidencing the payment of such excise tax have not been placed thereon prior to such seizure; provided, that before resale by such purchaser proper excise tax stamps be attached to all containers of such liquors.

[1937 c. 151 s. 1; 1943 c. 165 s. 1; 1945 c. 307 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)

SEARCH AND SEIZURE

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, said property shall be promptly returned to the defendant. If the defendant shall 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)

VIOLATIONS AND PENALTIES

340.69 CERTAIN ACTS DECLARED TO BE MURDER. Any person who unlawfully sells intoxicating liquor which, when drunk, causes the death of the person drinking the same, is 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 unlawfully sells intoxicating liquor which, when drunk, causes permanent physical or mental injury to the person drinking the same, is 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 sells or gives 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, is 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. Subdivision 1. 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 who has not adopted the language, customs, and habits of civilization, or to any public prostitute.

Subd. 2. 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.

Subd. 3. 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 is guilty of a gross misdemeanor.

[R L s 1534; 1911 c 83; 1913 c 538 s 1; 1947 c 87 s 1] (3238-4)

340.731 MINOR FORBIDDEN TO ENTER PREMISES LICENSED TO SELL ALCOHOLIC BEVERAGES, TO CONSUME ALCOHOLIC BEVERAGES, OR MISSTATE HIS AGE. It shall be unlawful for (1) a minor to enter any premises licensed for the retail sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage containing more than one-half of one per cent of alcohol by volume or

(2) a minor to consume any alcoholic beverage, on premises licensed for the retail sale of alcoholic beverages, or any municipal liquor store, or to purchase, attempt to purchase or have another purchase for him or her any alcoholic beverage; or

(3) any person to misrepresent or mis-state his or her age, or the age of any other person for the purpose of inducing any licensee or any employee of any licensee, or any employee of any municipal liquor store, to sell, serve or deliver any alcoholic beverage to a minor.

[1949 c 415 s 1]

340.732 VIOLATION AND PENALTIES. Any person who shall violate any provision of section 340.731 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished accordingly.

[1949 c 415 s 2]

340.74 FRAUDULENT SHIPMENTS. Every person who knowingly delivers or causes 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 knowingly receives the same for shipment, and every person knowingly shipping or receiving liquor so marked, is 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 sells any liquor or maintains a drinking place within one mile of the state fair grounds, while the state fair is being held, or aids or abets another in either of such acts, is guilty of a gross misdemeanor, and shall be punished for the first offense by a fine of not less than \$100 nor more than \$250 or by 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 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 sells any liquor, except as allowed by this chapter, or who allows his place of business to be used as an unlicensed drinking place, is 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, is guilty of a misdemeanor, and is subject to the penalties prescribed for the illegal sale of liquor, and shall also 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, nor more than \$100 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, is 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, is 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 employer 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 section shall be punished by a fine of not less than \$25 nor more than \$100 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, except as hereinbefore provided is guilty of a felony, and shall be punished by imprisonment in the state prison for not more than two years and a fine of not more than \$300.

[R L s 1560; 1947 c 87 s 2] (3283-13)

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, 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 is guilty of a misdemeanor; and, upon conviction thereof by any court having jurisdiction, shall be punished by fine of not less than \$25 nor more than \$100 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, is 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 forfeit not less than \$100 nor more than \$500 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 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 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 is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$10 nor more than \$100 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, has the same power and authority as any peace officer, including the power to summon assistance, and such conductor has 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, is 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, barkeep, or other employee authorized to sell liquor

in such place is the act of the employer as well as that of the person actually making the sale; and every such employer is liable to all the penalties provided by law for such sale, equally with the person actually making the same.

[R. L. s. 1565] (3238-18½)

340.95 CIVIL ACTIONS FOR INJURIES CAUSED BY INTOXICATION.

Every husband, wife, child, parent, guardian, employer, or other person who is injured in person or property, or means of support, by any intoxicated person, or by the intoxication of any person, has a right of action, in his own name, against any person who, by illegally selling, bartering or giving intoxicating liquors, 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 parent, guardian, or next friend, as the court directs; and all suits for damages under this section shall be by civil action in any court 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 is guilty of the crime of drunkenness, and shall be 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; for the second offense, by imprisonment for not more than 60 days or by a fine of not more than \$60; 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 again transgresses within a period of six months thereafter, he shall again be brought before the court and punished by a term of imprisonment as provided for in this section.

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