

CHAPTER 34

NON-ALCOHOLIC BEVERAGES

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34.001 DEFINITION. Subdivision 1. Except where the context otherwise indicates, for the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. "Commissioner" means the commissioner of the department of agriculture.

[1961 c 113 s 1; 1961 c 128 s 17]

SOFT DRINKS, NON-ALCOHOLIC BEVERAGES

34.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the terms defined in subdivisions 2 and 3, for the purposes of sections 34.02 to 34.11, shall have the meanings given them.

Subd. 2. **Soft drinks and other non-alcoholic beverages.** The term "soft drinks and other non-alcoholic beverages" means and includes (1) carbonated or still beverages, (2) natural and mineral waters, carbonated, plain or otherwise, (3) apple or fruit ciders, natural or reconstituted fruit juices, or cereal beverages and other finished beverages.

Subd. 3. **Adulterated soft drinks and non-alcoholic beverages.** In addition to the requirements of other laws relating to adulteration of food which are administered by the department of agriculture, all soft drinks and other non-alcoholic beverages not conforming to the provisions of sections 34.02 to 34.11, or to the rules, definitions, and standards made thereunder, shall be deemed to be adulterated.

Subd. 4. [Renumbered 34.119]

[1927 c 42 s 3, 9; 1933 c 378 s 1; 1937 c 359 s 1; 1945 c 39 s 1; 1947 c 447 s 1; 1953 c 586 s 1; 1961 c 113 s 1; 1961 c 128 s 18; 1961 c 144 art 2 s 23; 1967 c 92 s 1] (3965-3, 3965-9)

34.02 LICENSES; EXCEPTIONS. No person shall manufacture, mix, or compound any soft drinks or other non-alcoholic beverage, to be sold in bottles, barrels, kegs, jars, coolers, cans, glasses or tumblers, or other containers, without first having obtained a license therefor from the commissioner. Sections 34.02 to 34.11 shall not apply to beverages manufactured, mixed, or compounded in quantities of one quart or less at one time.

[1927 c 42 s 1; 1947 c 447 s 2; 1953 c 586 s 2] (3965-1)

34.03 SOFT DRINKS INSPECTED; REGISTRATION. No soft drinks or other nonalcoholic beverages, not manufactured in this state, shall be sold, offered or exposed for sale, exchanged, or held in possession with intent to sell within this state, unless the same are first inspected and registered with the commissioner.

[1927 c 42 s 2; 1957 c 106 s 1] (3965-2)

34.04 LICENSES; APPLICATIONS, FEES, REFUNDS. Any person manufacturing, mixing, or compounding soft drinks or other non-alcoholic beverages, as de-

scribed in section 34.02, shall apply for a license therefor to the commissioner, in such form, and furnish such information as the commissioner may require. Each application, except as otherwise provided, shall be accompanied by a license fee of \$30, which shall be the annual license fee if the license is granted, provided, however, that if the applicant manufactures, mixes, or compounds soft drinks or other non-alcoholic beverages as described in section 34.02 in quantities of from over one quart to five gallons, the application shall be accompanied by a license fee of \$6 which shall be the annual license fee if license is granted. If the license fee of the applicant is \$30 and license is refused one-half of such sum shall be retained to reimburse the state for inspection, the balance being returned to the applicant. There is hereby appropriated to the persons entitled to such refund, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment. In the case of all other applicants, if license is refused, no portion of the sum so paid shall be returned but all such sums shall be retained to reimburse the state for inspection. If the commissioner shall find that the applicant maintains a proper place and the equipment and containers necessary for the manufacture of soft drinks and other non-alcoholic beverages, as required by sections 34.02 to 34.11, and otherwise complies therewith, the commissioner shall issue to the applicant a license therefor.

[1927 c 42 s 4; 1953 c 586 s 3; 1959 c 157 s 2; 1969 c 1148 s 13] (3965-4)

34.05 REGISTRATION BY NON-RESIDENT MANUFACTURERS. Any person who manufactures soft drinks or other non-alcoholic beverages outside of this state, for sale within this state, shall apply for registration with the commissioner in such form and furnish such information as he may require. Samples of all soft drinks or other non-alcoholic beverages so manufactured for sale and sold within this state shall be submitted. Each application shall be accompanied by a registration fee of \$30, which shall constitute the registration fee in case registration is granted, and one-half of which may be retained to reimburse the state for inspection should registration be refused. If the commissioner shall find that the samples so submitted are up to accepted standards, and otherwise comply with the laws of this state, he shall issue to the applicant a certificate of registration.

[1927 c 42 s 5; 1969 c 1148 s 14] (3965-5)

34.06 LICENSE OR CERTIFICATE OF REGISTRATION; TERM; TRANSFER; FEE; PENALTY. License, or certificate of registration issued hereunder, shall expire on the thirty-first day of March following its issue, and no license or certificate of registration shall be issued for a longer term than one year, and it shall not be transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location. When a license or certificate of registration requires a \$30 annual fee but is issued for a less term than one year, the fee for same shall be computed at the rate of \$2.50 for each calendar month or fractional part of such month. Applicants qualifying for a \$6 annual license fee, regardless of the term the license is issued for, shall pay that sum as the annual license fee. A penalty of 50 percent of the license or registration fee shall be imposed if license or certificate of registration is not applied for on or before April first, of each year, or within 30 days after such beverages are first manufactured or sold within this state.

[1927 c 42 s 6; 1953 c 586 s 4; 1969 c 1148 s 15] (3965-6)

34.07 BEVERAGE INSPECTION FUND. All fees collected hereunder by the commissioner, together with all fines paid for the violation of the provisions of sections 34.02 to 34.11, shall be paid into the state treasury and credited to the beverage inspection fund, hereby created. The money so derived is hereby appropriated to compensate for and meet the expense of inspection and supervision, as provided for in sections 34.02 to 34.11. The money so collected and appropriated shall be expended by the commissioner for inspection, supervisions, publications, short courses, and such other activities as in his judgment may be necessary, not inconsistent with the provisions of sections 34.02 to 34.11.

[1927 c. 42 s. 7] (3965-7)

34.08 SUSPENSION OR REVOCATION OF LICENSE OR CERTIFICATE; HEARINGS. The commissioner shall have power to suspend or revoke any such license or certificate of registration for failure to comply with the provisions of sections 34.02 to 34.11, or rules and regulations made thereunder, either temporary

or permanent, but before any permanent revocation of license or certificate of registration shall be made, the commissioner shall serve upon the licensee or certificate holder, by registered letter containing a copy thereof, an order to show cause why the license or certificate of registration should not be permanently revoked, stating the grounds thereof and the time and place of hearing, which time shall not be less than 15 days after the mailing of the order.

At the appointed time and place, and at such times as the matter may be adjourned to, the commissioner shall hear all proper evidence relating to the cause of the proposed revocation and, within a reasonable time thereafter, he shall make and file his decision of the matter and forthwith mail to the licensee or certificate holder a copy thereof.

The commissioner may temporarily suspend the license of any licensee for violations of sections 34.02 to 34.11, regulations made thereunder, or under other laws relating to food which are administered by the commissioner but no such temporary suspension shall exceed 30 days, in which time steps may be taken by the commissioner for permanent revocation, as above provided.

Any person, whose license or certificate of registration has been so suspended or revoked, shall discontinue the manufacture of, or sale within this state of, any soft drinks or other non-alcoholic beverages, until the suspension is removed or a new license or certificate is granted.

[1927 c 42 s 8; 1961 c 144 art 2 s 24] (3965-8)

34.09 SANITATION; RULES AND REGULATIONS. The commissioner shall promulgate, in the manner provided by law, such rules and regulations establishing minimum sanitary requirements as are reasonably necessary to protect the public health and interest.

[1927 c 42 s 10; 1967 c 92 s 2] (3965-10)

34.10 [Repealed, 1967 c 92 s 4]

34.11 RESTRICTIONS ON USE OF TRADE NAMES. No person shall label or represent his soft drinks or non-alcoholic beverages by using any trademark, trade name or proprietary name other than one owned by him, unless the soft drink or beverage is marketed or sold under franchise, license, permit or contract with the owner or holder of the trademark, trade name or proprietary name.

[1927 c 42 s 12; 1947 c 447 s 4; 1969 c 411 s 1] (3965-12)

34.112 ENFORCEMENT. The commissioner, his inspectors, assistants, and employees, shall enforce the provisions of sections 34.02 to 34.11.

[1927 c 42 s 1, 13; 1961 c 144 art 2 s 25] (3965-1, 3965-13)

34.113 PENALTY. Any person violating any of the provisions of sections 34.02 to 34.11, or of any regulations made thereunder or now in force, shall be guilty of a misdemeanor and be punished by a fine of not less than \$25 or by imprisonment in the county jail for not less than 30 days for the first offense; and in the sum of not less than \$50 or by imprisonment in the county jail for not less than 60 days for each subsequent offense.

[1927 c 42 s 14] (3965-14)

FERMENTED MALT BEVERAGES

34.119 DEFINITION. For the purposes of section 34.12, "fermented malt beverages" means any liquor or liquid capable of being used for beverage purposes, made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar, containing one-half of one percent or more of alcohol by volume.

[1937 c 59 s 1; 1961 c 128 s 19] (3965-16)

34.12 BARLEY MALT, PERCENT REQUIRED IN MALT BEVERAGES. No fermented malt beverages shall be sold in this state unless 66% percent, or more, of the grain used in its manufacture consists of barley malt.

[1937 c. 59 s. 1] (3965-16)

34.13 ENFORCEMENT. Subdivision 1. [Renumbered 34.112]

Subd. 2. The department of agriculture shall be charged with the enforcement

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of section 34.12 and it is hereby authorized and directed to procure samples on the open market for chemical analysis.

[1937 c 59 s 2; 1961 c 113 s 1] (3965-17)

34.14 PENALTY. Subdivision 1. [Renumbered 34.113]

Subd. 2. Any violation of section 34.12 shall be a misdemeanor and punishable accordingly.

[1937 c 59 s 3] (3965-18)