

Police Regulations

CHAPTER 340

INTOXICATING LIQUORS

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NOTE: See also section 624.701.

NON-INTOXICATING MALT LIQUOR ACT

340.001 DEFINITIONS. Subdivision 1. For the purposes of the non-intoxicating malt liquor act, except where the context otherwise requires, the terms defined in this section shall have the meanings given them.

Subd. 2. Non-intoxicating malt liquor is any malt liquor containing not less than one-half of one per cent alcohol by volume nor more than 3.2 per cent alcohol by weight and is a fermented malt beverage for the purposes of Minnesota Statutes 1965, Sections 340.44 to 340.56.

Subd. 3. Commissioner is the liquor control commissioner.

Subd. 4. "On-sale" is any sale of non-intoxicating malt liquor to be consumed on the licensed premises.

Subd. 5. "Off-sale" is any sale of non-intoxicating malt liquor to be consumed off the premises.

Subd. 6. Municipality means any city, village, or borough.

Subd. 7. A bona fide club is an organization organized for social purposes, business purposes, for intellectual improvement, or for the promotion of sports where the serving of non-intoxicating malt liquor is incidental to and not the main purpose of the club.

Subd. 8. An affiliate or subsidiary company of a manufacturer shall be one in which the manufacturer or its stockholders own a majority of the stock.

[1967 c 20 s 1]

340.01 LICENSES. There is hereby conferred upon the governing body of each county and municipality 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.

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; 1967 c 20 s 2] (3200-5)

340.013 M.S. 1965 [Repealed, 1967 c 20 s 13]

340.013 NON-INTOXICATING MALT LIQUOR LICENSE FEES; DIVISION. 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.

[1967 c 20 s 3]

340.02 LICENSE WHEN REQUIRED TO SELL; FEES. Subdivision 1. **License required.** Except as provided in this section, it shall be unlawful to sell non-intoxicating malt liquors, at retail, or wholesale, except when licensed as hereinafter provided.

Subd. 2. **"On-sale" fees.** 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 or municipality wherein the premises are situated shall fix a higher fee to be paid to such county or municipality. "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.

Subd. 3. **"Off-sale"; fees.** 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 not more than \$15 per annum.

Subd. 4. **Common carrier licenses; fees.** The liquor control commissioner may license a person certificated by either the state of Minnesota or the United States of America, or an agency thereof, as a common carrier engaged in the business of transporting persons for hire in interstate or intrastate commerce to sell, at "on-sale," non-intoxicating malt liquors, but no such license shall be issued unless such common carrier serves meals or lunches in the place where such non-intoxicating malt liquors are to be sold. A person applying for such a license shall pay the liquor control commissioner a fee of \$25 per annum for such license and \$2 for each duplicate thereof. The duplicate of each license shall be posted in each place where non-intoxicating malt liquors are sold by such person. A licensee under this provision may serve non-intoxicating malt liquors only to a bona fide passenger thereof who is actually being transported in interstate or intrastate commerce.

Subd. 5. **Wholesale license; fees.** The commissioner may issue wholesale licenses upon application and payment of a license fee of \$10 per annum, which license shall permit the licensee to sell non-intoxicating malt beverages to holders of on or off-sale retail licenses. The fee therefor shall be paid into the state treasury. Any person licensed as a manufacturer or wholesaler of intoxicating malt liquor, shall not be required to obtain any such license and may sell non-intoxicating malt beverages at wholesale without further license.

Subd. 6. **Manufacturer; prohibitions.** No manufacturer of non-intoxicating malt liquor, nor any affiliate or subsidiary company of such manufacturer, shall sell such non-intoxicating malt liquor except as provided in this section.

Subd. 7. **Manufacturer; sales.** 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. 8. **Persons eligible.** 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. 9. **Licenses; duration.** All licenses for the sale of non-intoxicating malt liquor 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.

Subd. 10. **Manufacturer's employees sales.** A manufacturer of non-intoxicating malt liquor may, without license, sell non-intoxicating malt beverages to any employee of such manufacturer or to any former employee who has retired from such employment because of age or physical disability. Such beverages shall be sold for consumption off the premises only, and the amount sold to any one person in any one week, together with any intoxicating malt liquor sold under section 340.11, subdivision 15, shall not exceed 768 fluid ounces.

Subd. 11. **Licenses; fee refunds; certain extensions.** In case during the term of any "off-sale" or "on-sale" non-intoxicating malt beverages 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 death of any licensee of any "off-sale" or "on-sale" non-intoxicating malt beverages, 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.

Subd. 12. **3.2 licensees; 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 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.

Subd. 13. Licensees; misdemeanor to hold federal liquor stamps. Any person who sells non-intoxicating malt liquor, containing not more than 3.2 per cent alcohol by weight, while holding or exhibiting in his place of business a federal retail liquor dealer's special tax stamp, without having an intoxicating liquor license under the laws of Minnesota, shall be guilty of a misdemeanor.

[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; 1953 c 346 s 1, 2; 1955 c 551 s 1; 1955 c 820 s 37; 1965 c 138 s 1; 1967 c 20 s 4; 1969 c 6 s 43] (3200-6)

340.021 [Repealed, 1967 c 20 s 13]

340.022 [Repealed, 1967 c 20 s 13]

340.023 [Repealed, 1967 c 20 s 13]

340.024 SHERIFF'S CONTINGENT FUND; CREATION, EXPENDITURES, WITHDRAWALS, TRANSFER TO GENERAL REVENUE FUND. There is hereby created in each county 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 the county 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 may expend moneys from this 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 the order of the district court after application. At the close of the fiscal year any moneys in the fund in excess of \$1,000 shall be transferred into the general revenue fund.

[1939 c 111 s 1; 1955 c 11 s 1] (3200-84)

340.025 [Repealed, 1967 c 20 s 13]

340.026 [Repealed, 1967 c 20 s 13]

340.03 [Repealed, 1967 c 20 s 13]

340.031 MANUFACTURERS AND WHOLESALERS. Subdivision 1. No manufacturer or wholesaler of non-intoxicating malt liquor shall have any ownership, in whole or in part, in the business of any licensee holding an "on-sale" license.

Subd. 2. 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 April 16, 1943, 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) 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 April 16, 1943.

Any retailer who shall be a party to any violation of this subdivision 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.

Any person who shall violate the provisions of this subdivision is guilty of a gross misdemeanor, and each violation shall constitute a separate offense.

Subd. 3. 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 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 non-intoxicating malt liquor of any manufacturer to the exclusion, in whole or in part, of the products of other manufacturers.

[1967 c 20 s 5]

340.032 IMPORTERS. Subdivision 1. No non-intoxicating malt liquor shall be shipped into this state except by a person licensed in the manner provided in section 340.493.

Subd. 2. All non-intoxicating malt liquors manufactured outside the state of Minnesota may be shipped into this state for sale only to a licensed Minnesota wholesaler and shall be unloaded into such wholesaler's warehouse in Minnesota, and said licensed wholesaler shall distribute said malt beverages from such warehouse; provided that the requirements of this section as to warehousing shall not apply to a wholesaler located in any adjoining state which permits Minnesota wholesale licensees to deliver malt beverages to retailers without warehousing in that state.

[1967 c 20 s 6]

340.033 SIZE OF CONTAINERS. Notwithstanding any law or regulation of any state department to the contrary, non-intoxicating malt liquors may be sold in containers which contain 128 ounces of such non-intoxicating malt liquor.

[1967 c 20 s 7]

340.034 SALES; CLOSING HOURS. Subdivision 1. No sale of non-intoxicating malt liquor shall be made between the hours of one a. m. and eight a. m. on any week day Monday through Saturday inclusive. Neither shall any sale of such liquor 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 is held, except that the governing body of a municipality may allow such sale in such municipality during such hours while only a town election is being held in such municipality.

Subd. 2. 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 this section, but such political subdivisions may, within the time the laws of this state permit such sale, further limit the hours of sale of non-intoxicating liquors, provided that such limited hours for sale shall apply to both non-intoxicating malt liquors and intoxicating liquors.

Subd. 3. Any violation of this section is a misdemeanor and shall also be cause for the revocation or suspension of the license of the offender.

[1967 c 20 s 8]

340.035 MINORS. Subdivision 1. It shall be unlawful for any:

(1) 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 or to permit any minor to loiter or to remain in the room where non-intoxicating malt liquor is being sold or served unless accompanied by his parent or legal guardian;

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

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

(4) Minor to misrepresent his age for the purpose of obtaining non-intoxicating malt liquor;

(5) Minor to consume any non-intoxicating malt liquor unless in the company of his parent or guardian;

(6) Minor to have in his possession any non-intoxicating malt liquor, with intent to consume same at a place other than the household of his parent or guardian. Possession of such non-intoxicating malt liquor at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian.

Subd. 2. A person violating any provision of this section is guilty of a misdemeanor.

[1967 c 20 s 9]

NOTE: For employment of minors, see sections 181.49 and 340.14, subdivision 2.

340.036 PENALTIES. Except where a different penalty is otherwise provided for, a person violating a provision of sections 340.001 to 340.02 and 340.031 to 340.038 is guilty of a misdemeanor.

[1967 c 20 s 10]

340.038 CITATION. Sections 340.001 to 340.02 and 340.031 to 340.038 may be cited as the non-intoxicating malt liquor act. None of its provisions, however, shall be construed to apply to a non-intoxicating malt liquor containing less than ½ of one percent of alcohol by volume.

[1967 c 20 s 12]

340.04 [Repealed, 1967 c 20 s 13]

340.05 [Repealed, 1967 c 20 s 13]

340.06 [Repealed, 1967 c 20 s 13]

INTOXICATING LIQUOR ACT

340.069 CITATION. Sections 340.07 to 340.353, 340.355 to 340.407, 340.493, and 340.51 may be cited as the "intoxicating liquor act", and is a part of Minnesota Statutes 1965, Chapter 340.

[1967 c 19 s 18]

340.07 DEFINITIONS. Subdivision 1. For the purposes of the intoxicating liquor act, except where the context otherwise requires, the terms defined in this section shall have the meanings given them.

Subd. 2. "Intoxicating liquor" and "liquor" mean ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing in excess of 3.2 percent of alcohol by weight.

Subd. 3. "Sale" and "sell" and "sold" mean all barter and all manners or means of furnishing intoxicating liquor including such furnishing in violation or evasion of law.

Subd. 4. "Off-sale" means the sale of liquor in original packages in retail stores for consumption off or away from the premises where sold.

Subd. 5. "On-sale" means the sale of liquor by the glass for consumption on the premises only.

Subd. 6. "Wholesale" means any sale for purposes of resale.

Subd. 7. "Manufacturer" means 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.

Subd. 8. "Wholesaler" means any person engaged in the business of selling intoxicating liquor to retail dealers.

Subd. 9. "Person" includes the meaning extended thereto by section 645.44, subdivision 7.

Subd. 10. "Package" or "original package" means any container or receptacle holding liquor, which container or receptacle is corked or sealed.

Subd. 11. "Municipality" means any city, village, borough, public corporation created under Minnesota Statutes, Sections 360.101 to 360.125, inclusive, as to any major airport, as defined by Minnesota Statutes, Section 360.127, operated by any such public corporation where the lands or any part thereof constituting such major airport have been detached from cities and villages under and pursuant to Minnesota Statutes, Sections 360.126 to 360.132, inclusive, or a county which is specifically authorized by law to issue an on-sale license.

Subd. 12. "Hotel" means 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. 13. "Exclusive liquor store" is an on-sale or off-sale, or combination on-sale and off-sale, establishment used exclusively for the sale of intoxicating liquor at retail and under the control of an individual owner or manager and as an incident thereof may also sell cigars, cigarettes, ice, all forms of tobacco, non-intoxicating malt beverages, and soft drinks at retail. An exclusive liquor store includes an on-sale or combination on-sale and off-sale establishment operating a restaurant or selling food for consumption on the premises when authorized by the municipality issuing the license.

Subd. 14. "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 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. In cities of the first class such establishment shall have facilities for seating not less than 50 guests at one time; in cities of the second and third class and villages of over 10,000 population, such establishment shall have facilities for seating not less than 30 guests at one time, or such greater number as the municipality may determine; and in cities of the fourth class and villages of 10,000 population or less, in such manner as the municipality shall determine; and in an unincorporated or unorganized area of a county such establishment shall have facilities for seating not less than 100 guests at one time or such greater number as the county board may determine.

Subd. 15. "Club" means 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, or a congressionally chartered veterans' organization, 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. 16. "Medicines" means 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. 17. "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.

[*Ext 1934 c 46 s 1; 1937 c 421 s 1; 1939 c 101 s 1; 1947 c 342 s 1; 1951 c 286 s 1; 1953 c 147 s 1; 1959 c 540 s 1; 1961 c 25 s 1; 1967 c 19 s 1; 1967 c 697 s 2*] (3200-21)

340.08 LIQUOR CONTROL COMMISSIONER. Subdivision 1. The office of liquor control commissioner is hereby established, and the liquor control commissioner, who shall be in unclassified service, shall be appointed by the governor, by and with the consent and advice of the senate, for a term of four years which shall coincide with the term of the governor until his successor is duly appointed and has qualified. The governor may remove the commissioner at any time for cause after notice and hearing. 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. In case of a vacancy, the governor may appoint a commissioner, who

shall immediately take office and shall carry on the duties of the office until the next session of the legislature, when his appointment shall be submitted to the senate for approval. On January 4, 1971, the term of the incumbent liquor control commissioner shall expire.

Subd. 2. It shall be the duty of the governor to remove the liquor control commissioner for any violation of the intoxicating liquor act. A record of the charges, proceedings, and findings thereon shall be filed in the office of the governor.

Subd. 3. M.S. 1949 [Repealed, 1951 c 713 s 38]

Subd. 3. 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 bonds shall be prescribed by the attorney general.

[*Ex1934 c 46 s 2; 1949 c 739 s 17; 1967 c 19 s 2; 1969 c 1129 art 8 s 10, 11*] (3200-22)

340.09 LIQUOR CONTROL COMMISSIONER; POWERS. 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 the provisions of chapter 340, 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 such chapter 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.

[*Ex1934 c 46 s 3; 1945 c 309 s 1; 1967 c 19 s 3*] (3200-23)

340.10 PUBLISHING REGULATIONS. All regulations made by the liquor control commissioner shall be printed in book form. Such regulations shall otherwise comply with the administrative procedure act as contained in chapter 15.

[*Ex1934 c 46 s 4; 1967 c 19 s 4*]

340.11 LICENSES. Subdivision 1. **Prohibitions.** It shall be unlawful for any person, directly or indirectly, upon any pretense or by any device, to manufacture, import, sell, exchange, barter, dispose of, or keep for sale any intoxicating liquor without first having obtained a license therefor. Sales, however, may be made without a license, as authorized by subdivision 15. Nothing herein shall prohibit the natural fermentation of fruit juices in the home for family use.

Subd. 2. **Wholesalers' and manufacturers' licenses.** Manufacturers' and wholesalers' licenses shall be issued by the liquor control commissioner.

A manufacturer's or wholesaler's license shall include the right to import. 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 of the state for a period of five years continuously immediately prior to such application for a license, and that such person 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 percent of the stock by value and 75 percent 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. A person, partnership, or corporation lawfully licensed as a wholesaler in the state of Minnesota March 27, 1945, shall not be subject to any residence or voting requirements to renew his wholesaler's license, nor shall his successor or assigns who acquire substantially all of the property of such licensee. A person who served in the Armed Forces of the United States of America during any time since July 1, 1942, shall be given credit as having voted at any general election held during the time he served in the Armed Forces of the United States of America.

Subd. 3. **Common carrier licenses.** The liquor control commissioner may license a person certificated by either the state of Minnesota or the United States of America, or an agency thereof, as a common carrier engaged in the business of

transporting persons for hire in interstate or intrastate commerce to sell intoxicating liquor, but no such license shall be issued unless such common carrier serves meals or lunches in the place where such intoxicating liquor is to be sold. A person applying for such a license shall pay the liquor control commissioner a fee of \$100 per annum. The expiration date of each license issued shall be determined by the liquor control commissioner. A duplicate of each license shall be posted in each place where intoxicating liquor is sold by such person and shall be obtained from the liquor control commissioner upon the payment of a \$10 fee for each duplicate. A licensee under this provision may serve intoxicating liquor only to a bona fide passenger thereof who is actually being transported in interstate or intrastate commerce.

Subd. 4. Off-sale licenses. "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. 5. On-sale licenses. "On-sale" licenses shall be granted and the annual license fee therefor shall be fixed in advance at a specified sum for the year by the respective municipalities authorized to issue licenses, and each municipality may revoke a license issued by it for cause. A municipality issuing an "on-sale" license shall within ten days after such issuance submit to the liquor control commissioner the full name and address of each person granted a license, and other information, including 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 municipality during the license period. No "on-sale" license shall be issued contrary to any of the provisions of the intoxicating liquor act.

Subd. 6. On-sale; first and second class cities. One "on-sale" license may be issued in any city of the first class for every 1,500 inhabitants; provided, however, that not more than 200 "on-sale" licenses shall be issued in any city of the first class. One "on-sale" license may be issued in any city of the second class or village of over 20,000 inhabitants for every 2,500 inhabitants according to the most recent federal decennial census or any special census taken pursuant to law; provided, however, that up to 18 "on-sale" licenses may be issued in a city of the second class or village of over 20,000 inhabitants regardless of population.

Subd. 7. On-sale; third and fourth class cities; villages and boroughs. Not more than 12 "on-sale" licenses shall be issued in any city of the third class. Not more than seven "on-sale" licenses shall be issued in any city of the fourth class, or borough. Not more than 12 "on-sale" licenses shall be issued in any village of 10,000 to 20,000 population. Not more than six "on-sale" licenses shall be issued in any village of 5,000 to 10,000 population. Not more than five "on-sale" licenses shall be issued in any village of 2,500 to 5,000 population. Not more than four "on-sale" licenses shall be issued in any village of 500 to 2,500 population. Not more than three "on-sale" licenses shall be issued in any village of less than 500 population.

Subd. 7a. Annexation or consolidation. A license validly issued within the number prescribed by this section shall not be subsequently rendered invalid or illegal by reason of any consolidation or annexation of territory to a city, village, or borough, and may thereafter continue to remain in effect and be renewed.

Subd. 8. Additional on-sale licenses; certain counties. 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 "on-sale" licenses and in cities of the fourth class may issue nine "on-sale" licenses and in villages having a population of more than 2,500, and less than 5,000, six "on-sale" licenses.

Subd. 9. M.S. 1949 [Repealed, 1953 c 695 s 3]

Subd. 9. On-sale licenses; certain airports. An on-sale license may be issued for the sale of intoxicating liquors in hotels, restaurants, and establishments for the sale of on-sale liquors in major airports operated by public corporations created under sections 360.101 to 360.125, which are operated by such public corporations as terminals for regular, scheduled air passenger service where the lands or any part thereof constituting the same have been detached from cities and villages under and pursuant to sections 360.126 to 360.132.

Subd. 10. On-sale licenses; certain counties. (1) On-sale licenses may be issued for the sale of intoxicating liquors by any county herein provided for.

(2) A county board may issue an "on sale" license for the sale of intoxicating liquors within the unorganized or unincorporated area of the county, to a restaurant as defined in section 340.07, subdivision 14, with the approval of the liquor control commissioner. No license shall be issued or renewed under this clause

after the application has been made therefor, until the county board shall have secured a written statement of the sheriff concerning the applicant. Such statement shall include a recital that to the best of his 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 nonintoxicating malt liquor or intoxicating liquors and that in his 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 statement of the sheriff, the character and reputation of the applicant, the nature of the business to be conducted, and the type of premises and propriety and location of said business.

Three licenses may be issued in the unorganized or unincorporated area of the county, plus one additional license for each 2,000 population or major fraction thereof in such unorganized or unincorporated area.

All licenses issued pursuant to this clause shall be governed by the appropriate provisions of the intoxicating liquor act except as otherwise provided for herein. The license fee for an on-sale license issued pursuant to this section or pursuant to any other law governing the issuance of a license by a county shall be fixed by the county board. The fee shall be in such an amount as is competitive with similar licensing fees in comparable areas where intoxicating liquor is sold at on-sale.

Subd. 11. On-sale licenses, including hotels, clubs, restaurants, and on-sale exclusive liquor stores. "On-sale" licenses may be issued by municipalities for the sale of intoxicating liquors in hotels, clubs, restaurants and establishments for the sale of "on-sale" liquors exclusively within the number authorized by this section. Except in a city of the first class and in addition to the number of licenses authorized by this section, an "on-sale" license may be issued, if approved by the liquor control commissioner, to a bona fide club which has been in existence for 15 years or more or to a congressionally chartered veterans' organization which has been in existence for 10 years. Such a club or veterans' organization shall be incorporated in order to be eligible to apply for a license, and the license issued shall be for the sale of intoxicating liquors to members and bona fide guests only. The license fee for such an "on-sale" license is \$100. Except in cities of the first, second, and third class, a license may be issued jointly to congressionally chartered veterans' organizations which otherwise qualify under this subdivision.

Subd. 11a. On-sale licenses to certain sports commissions. Notwithstanding any law or municipal charter provision to the contrary, on-sale licenses for the sale of intoxicating liquor may be issued to establishments located on lands owned jointly by more than one municipality and which are used primarily for sports and recreational purposes upon payment of the regular on-sale license fee therefor to the municipality wherein the licensed premises are located. Such licenses shall authorize the sale of intoxicating liquor to club members and guests only.

Subd. 12. On-sale-off-sale and combination on-sale and off-sale licenses. A city of the fourth class, a village of 10,000 inhabitants or less, or a borough may issue an "on-sale" license and an "off-sale" license to the same licensee or, in lieu of issuing an "off-sale" and an "on-sale" license separately to such licensee, may issue a combination "off-sale" and "on-sale" license. Whenever the population of a city of the fourth class, a village, or a borough is reported by a federal census to have increased in population to more than 10,000 inhabitants, such city, village, or borough may continue to issue an "off-sale" license to an "on sale" licensee or a combination license in lieu of a separate "off-sale" license and a separate "on-sale" license in the same manner as it issued the same prior to such increase in population.

Subd. 13. Off-sale licenses; number. "Off-sale" licenses may be granted in accordance with the following:

(1) In cities of the first class not more than one "off-sale" license for each 5,000 inhabitants thereof; such a license may be issued only to the proprietor of a drug store, or a general food store, or an exclusive liquor store.

(2) In all cities other than cities of the first class and in villages and boroughs, the number of "off-sale" licenses to be issued shall be determined by the governing body thereof. In such cities, villages, and boroughs, an "off-sale" license shall be issued only to a proprietor of a drug store or an exclusive liquor store except as otherwise provided in this section.

Subd. 14. License fees. The license fees to be paid before the issuance of licenses shall be as provided in clauses (a), (b), (c), (d).

(a) Except as provided in clauses (b), (c), and (d), any manufacturer shall pay to the state annually a license fee of \$5,000, and a fee of \$3,000 for each duplicate thereof.

(b) Any manufacturer of wines containing not more than 25 percent of alcohol by volume shall pay to the state annually a fee of \$500.

(c) Except as provided in clauses (a), (b), (d), any wholesaler shall pay to the state annually a license fee of \$5,000, and a fee of \$3,000 for each duplicate thereof.

(d) Any wholesaler of wines containing not more than 25 percent of alcohol by volume shall pay to the state annually a fee of \$500.

(e) The maximum license fee for an "off-sale" license in the cities of the first class shall be the sum of 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. 15. M.S. 1957 [Repealed, 1959 c 686 s 14; Ex1959 c 75 s 1]

Subd. 15. **Licenses not required.** It is lawful for a brewer to sell intoxicating malt beverages to his employee or to a former employee who is retired because of age or physical disability. Such beverages shall be sold for consumption off the premises only, and the amount sold to any one person in any one week shall not exceed 768 fluid ounces. The requirements of law relating to minimum prices for the sale of intoxicating malt beverages shall not apply to sales made under this subdivision, nor shall any license be required for the making of such sales.

Subd. 16. **Expiration date.** All intoxicating liquor licenses issued by a municipality, except manufacturers' and wholesalers' licenses, shall expire on the same date.

Subd. 17. **Municipal restrictions.** Any local authority shall have power to impose further restrictions and regulations upon the sale and possession of intoxicating liquor within its limits.

[Ex1934 c 46 s 5; 1935 c 303; 1937 c 227; 1937 c 387; 1937 c 478; Ex1937 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 626 s 1; 1951 c 250 s 1; 1953 c 86 s 1; 1953 c 356 s 1; 1953 c 442 s 1; 1953 c 610 s 1; 1953 c 695 s 1, 2; 1955 c 820 s 38, 39; 1957 c 387, 388; 1957 c 725 s 1; 1959 c 540 s 2, 3, 4; 1961 c 269 s 1; 1965 c 138 s 2; 1965 c 330 s 1; 1965 c 581 s 2; 1967 c 19 s 5; 1967 c 697 s 1; 1969 c 9 s 76; 1969 c 1127 s 1-5; 1969 c 1148 s 53, 54] (3200-25)

NOTE: As to charter amendments concerning sale of liquor, see section 410.121.

340.111 [Repealed, 1967 c 19 s 19].

340.112 LICENSE FEE, REFUND. In case during the term of any "off-sale" or "on-sale" 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" 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; 1967 c 19 s 6]

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. **License, application, renewal.** 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 \$150 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 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.

[1943 c 307 s 1-6; 1955 c 820 s 4; 1969 c 399 s 1; 1969 c 1148 s 55]

340.115 INTOXICATING MALT BEVERAGES MADE OUTSIDE STATE; SHIPMENT INTO STATE. All intoxicating malt beverages, manufactured outside the state of Minnesota, may be shipped into this state for sale only to licensed Minnesota wholesalers and shall be unloaded into such wholesaler's warehouse in Minnesota and said licensed wholesaler shall distribute said intoxicating malt beverages from such warehouse. Provided that the requirements of this section as to warehousing shall not apply to a wholesaler located in any adjoining state which permits Minnesota wholesale licensees to deliver intoxicating malt beverages to retailers without warehousing in that state.

[1955 c 436 s 1; 1961 c 377 s 1; 1967 c 19 s 7]

340.116 [Repealed, 1967 c 19 s 19]

340.117 [Repealed, 1967 c 19 s 19]

340.118 [Repealed, 1967 c 19 s 19]

340.119 BOTTLE CLUBS. Subdivision 1. For the purposes of this section, a bottle club is a "club," as defined in section 340.07, subdivision 15, or an unincorporated society which, except for its lack of incorporation, otherwise meets the requirements of a club, as defined in such section and subdivision, and which is not licensed for the sale of intoxicating liquor, either "on-sale" or "off-sale," or both.

Subd. 2. A bottle club may allow members to bring and keep a personal supply of intoxicating liquors in lockers assigned to such members. A bottle club or any unincorporated society which shall have more than 50 members and which shall have, for more than a year, owned, hired, or leased space in a building of such extent and character as may be suitable and adequate for reasonable and comfortable accommodations for its members, may allow members to bring and keep a personal supply of intoxicating liquors in lockers assigned to such members. Every bottle, container, or other receptacle containing intoxicating liquor stored by members shall have attached to it a label signed by the member of the club. All liquor on the premises of the club shall be labeled as herein required, and any not being actually used or consumed by the owner thereof shall be kept in a locker designated to the use of such member. It shall be unlawful for any club member under 21 years of age to be assigned a locker for the storage of intoxicating liquor, or to consume or display or be permitted to consume or display intoxicating liquor on any premises owned or controlled by such private club.

Subd. 3. It is unlawful for any bottle club or for any business establishment, directly or indirectly, or upon any pretense or by any device, to allow the consumption or display of intoxicating liquor or the serving of any liquid for the purpose of mixing of intoxicating liquor without having first obtained a permit therefor. Such permit shall be issued by the liquor control commissioner for a period of one year to expire on July 1, next following issuance of such license, upon the payment of \$100 and must be renewed annually on July 1. Application for such permit

shall be made to the liquor control commissioner. There is hereby conferred upon the governing body of each county, city, village, and borough, in the state the authority to impose, in addition to the fee provided by this subdivision, an additional fee not exceeding \$300 per year. Such additional fee shall be payable to the county, city, village, or borough imposing the fee.

Subd. 4. No person shall consume or display, or allow consumption or display of intoxicating liquor on any premises of a bottle club or a business establishment between the hours of one a. m. and eight a. m.; or between the hours of one a. m. and three p. m. on Memorial Day; or between the hours of one a. m. and eight p. m. on any primary, special, or general election day held in the district in which the bottle club or business establishment is located.

Subd. 5. Any bottle club or business establishment allowing the consumption or display of intoxicating liquor shall be open for inspection at all times by the liquor control commissioner and his designated agents and other duly authorized peace officers. Refusal to permit the liquor control commissioner and his designated agents or other duly authorized peace officers to enter and inspect the premises shall be a violation.

Subd. 6. No permit required by this section shall be issued to any bottle club when a member of the board, management, executive committee, or other similar body chosen by its members or when the business establishment or the owner thereof holds a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquors.

Subd. 7. This section has no application to any person or any premises licensed for the sale of intoxicating liquor under the intoxicating liquor act, but any such person or premises, being a business establishment, is eligible for a permit authorized by this section.

Subd. 8. A violation of this section is a misdemeanor, and any violation of subdivision 2 is grounds for the revocation of such permit.

Subd. 9. Intoxicating liquors sold, served, or displayed in the presence of anyone authorized to inspect the premises, as provided in this section, in violation of this subdivision, shall be subject to seizure for purposes of evidence and, contingent upon determination by a court, shall be disposed of as provided in section 340.63.

[1967 c 19 s 12]

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 percent of alcohol by weight and manufacturers and wholesalers of beer containing more than 3.2 percent 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, or in the case of a public corporation created under Minnesota Statutes, Sections 360.101 to 360.125, with the executive director thereof, 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, or in the case of a public corporation created under Minnesota Stat-

utes, Sections 360.101 to 360.125, with the executive director thereof, 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 shall 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, Section 340.95. Such liability insurance policy shall further provide that no cancellation 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, or in the case of a public corporation created under Minnesota Statutes, Sections 360.101 to 360.125, to the executive director thereof. 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 paragraphs (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 paragraph 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; 1959 c 540 s 5*]
(3200-26)

340.13 LICENSES; RESTRICTIONS. Subdivision 1. **Manufacturers' or whole-**

salers' interest in retail establishment. 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.

Subd. 2. Licenses in drug stores. No license shall be granted to any person who operates a drug store 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 or more.

Subd. 3. Limitations on a license issued to a person or place; penalty. No more than one intoxicating liquor license shall be directly or indirectly issued to any one person or for any one place in each municipality. It is a gross misdemeanor for any person, partnership, or corporation to knowingly have or possess a direct or indirect interest in more than one license in each municipality and upon conviction therefor the governing body of such municipality may immediately revoke all licenses in which such person, partnership or corporation has an interest. The term "interest" includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, but does not include: bona fide loans; bona fide rental agreements; bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to such establishment; an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith; or 10 percent or less interest in any other corporation holding a license. A person who receives monies from time to time directly or indirectly from a licensee, in the absence of a bona fide consideration therefor and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such retail license. In determining "bona fides" the reasonable value of the goods or things received as consideration for any payment by the licensee and all other facts reasonably tending to prove or disprove the existence of any purposeful scheme or arrangement to evade the prohibitions of this subdivision shall be considered.

Subd. 4. Licenses prohibited in municipalities having municipal stores and limited to retailers. Except in the case of bona fide clubs and veterans' organizations, as authorized by the last paragraph of section 340.11, subdivision 11, no "on-sale" or "off-sale" license shall be directly or indirectly issued in any city, village, or borough maintaining its own exclusive liquor store, nor shall such license be issued to a person who holds a manufacturer's or wholesaler's license issued pursuant to any provision of chapter 340.

Subd. 5. Licenses limited to certain areas. No "on-sale" or "off-sale" license shall be effective beyond the compact and contiguous space named therein for which the same was granted.

Subd. 6. Licenses prohibited in certain areas. 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 the intoxicating liquor act.

Subd. 7. Licenses in connection with premises of another. No license shall be issued to any person in connection with the premises of another to whom no license could be issued under the provisions of the intoxicating liquor act; 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 the intoxicating liquor act. No more than one license shall be issued to any person in any municipality except as otherwise specifically provided for in the intoxicating liquor act.

Subd. 8. Off-sale licenses where non-intoxicating malt beverages are sold. No "off-sale" license shall be issued for any place where non-intoxicating malt beverages shall be sold for consumption on the premises. This subdivision shall not

apply to those places where an "on-sale" and "off-sale" license or combination "off-sale" and "on-sale" licenses are specifically authorized by the intoxicating liquor act.

Subd. 9. **Licenses transferable.** A license shall be nontransferable without the consent of the authority issuing it.

Subd. 10. **License posting.** A license shall be posted in a conspicuous place in the premises for which it is issued.

Subd. 11. **Federal permits as a condition to license.** 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.

Subd. 12. **Licenses; persons eligible.** 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 within five years prior to the application of such license has been 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 the intoxicating liquor act shall be revoked for any wilful violation of any such laws or ordinances.

Subd. 13. **Licenses; legislative policy.** 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 s 1; 1943 c 501 s 3; 1953 c 66 s 1; 1953 c 669 s 1; 1955 c 657 s 1; 1959 c 703 s 1; 1967 c 19 s 8; 1969 c 462 s 1*] (3200-27)

340.135 LICENSES; REVOCATION; SUSPENSION. The authority issuing any license under the intoxicating liquor act may revoke the license for violation of any statute or ordinance relating to the sale of intoxicating liquor, or may suspend the license if revocation is not mandatory. The licensee shall be granted a hearing upon at least 10 days notice before revocation or suspension is ordered by such governing body where mandatory revocation is not provided by law. "Off-sale" licenses may be revoked or suspended by the governing body of the municipality as above provided or by the liquor control commissioner after hearing. No suspension shall exceed 60 days.

[*1967 c 19 s 9*]

340.14 REGULATIONS. Subdivision 1. **Hours and days of sale.** No sale of intoxicating liquor shall be made after one a. m. on Sunday, nor until eight a. m. on Monday, 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 except that the governing body of any municipality may allow such sale in such municipality during such hours while only a town election is being held in such municipality. 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 liquors and non-intoxicating malt liquors.

Subd. 2. **Restrictions.** 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. 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", except that persons under 21 years of age may be employed to perform the duties of a busboy or dish-washing services in places defined as a restaurant or hotel or motel serving food in rooms 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.

NOTE: For employment of minors, see also section 181.49.

Subd. 3. Sales; where forbidden. No intoxicating liquors shall be sold in any of the following places:

- (1) Within the capitol or upon the grounds thereof;
- (2) Upon the state fairgrounds or within one half mile thereof. While the state fair is being held, any person who sells any liquor or maintains a drinking place within one mile of the state fairgrounds, 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; for each subsequent offense by a fine of not less than \$500 nor more than \$1000 or by imprisonment for not less than 3 nor more than 6 months or by both;
- (3) Within one mile of the school of agriculture of the University of Minnesota located in Section 21, town 29, range 23 west of Ramsey county. Any person who shall sell intoxicating liquor or maintains a drinking place within one mile of the school of agriculture of the University of Minnesota, or who aids and 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 more than \$100 or by imprisonment for not less than 60 nor more than 90 days; for each subsequent offense by a fine of not less than \$500 nor more than \$1000 or by imprisonment in the county jail for not less than six months nor more than one year or both;
- (4) Within 1000 feet of any state hospital, training school, reformatory, prison, or other institution under the supervision and control, in whole or in part, of the commissioner of public welfare or the commissioner of corrections. Whoever sells or otherwise disposes of intoxicating liquor at retail at a place prohibited by this clause is guilty of a gross misdemeanor.
- (5) 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;
- (6) At any place on the east side of the Mississippi river within one mile of the main building of the University of Minnesota; and within one mile of the Kirby student center building of the University of Minnesota, Duluth Branch;
- (7) Within 1,500 feet of any state college, except as hereinafter provided, or, when the place of sale is not within a municipality, within 1,500 feet of any public school outside of a municipality; at Winona state college, in determining the distance, the measurement shall be along the most direct line from the nearest corner of the administration building of the Winona state college to the main entrance of the licensed premises; as to the Valley Campus of the Mankato state college in the city of Mankato when the place of sale is within 1,000 feet from the middle of the entrance into the main building which entrance is located on the easterly side of South 5th Street at a point where said street is intersected by East Jackson Street in the city of Mankato, or between the Valley campus and Highland campus or within 1,500 feet of the Highland campus;
- (8) 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;
- (9) The restrictions imposed by this subdivision shall not apply to any manufacturer or wholesaler of intoxicating liquors or to a drug store or to any person lawfully licensed to sell intoxicating liquor immediately prior to the enactment of this subdivision.

Subd. 4. Certain sales forbidden. 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 U. S. Treasury Department, Bureau of Internal Revenue, Regulations 125, Article II, Standards of Identity for Distilled Spirits.

Subd. 5. **Sunday sales.** (a) Notwithstanding the provisions of subdivision 1, in any municipality establishments to which on sale licenses have been issued or hereafter may be issued for the sale of intoxicating liquors which are hotels or restaurants or clubs as defined in section 340.07, and which have facilities for serving not less than 30 guests at one time, may serve intoxicating liquors between the hours of 12 o'clock noon and 12 o'clock midnight on Sundays in conjunction with the serving of food.

(b) It is unlawful for any such establishment, directly or indirectly, to sell or serve such intoxicating liquors as provided in paragraph (a) above, without having first obtained a special license from the municipality therefor. Such special license may be issued by the governing body of the municipality for a period of one year and for such a fee as it shall determine, but not exceeding \$200. The special license may be revoked by the governing body, for cause. The provisions of section 340.112 shall apply to such license. Application for the special license shall be made to the governing body of the municipality in the same manner as application for other licenses to sell intoxicating liquor are made.

(c) This subdivision shall not apply to any municipality until authorized by the voters of the municipality voting on the question at a special election called for such purpose or at the general election in the municipality, the election to be conducted in accordance with the applicable provisions of the Minnesota election law. Provided, however, that municipal voter approval shall not be required in the case of major airports operated by public corporations created under sections 360.101 to 360.125, which are operated by such public corporations as terminals for regular, scheduled air passenger service where the lands or any part thereof constituting the same have been detached from cities and villages under and pursuant to sections 360.126 to 360.132, nor in the case of common carriers licensed under the provisions of sections 340.11, subdivision 3, and 340.12 and any license to sell intoxicating liquors on Sunday issued to a common carrier by the liquor control commissioner shall, in addition to all other license fees, require the payment to the liquor control commissioner of a fee of \$50 per annum plus a fee of \$5 for each duplicate of said license required to be posted in each place where intoxicating liquor is sold by said common carrier.

[*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; 1955 c 186 s 1; 1961 c 388 s 2; 1961 c 390 s 1; 1961 c 735 s 1; 1965 c 453 s 1; 1967 c 19 s 10; 1967 c 691 s 1; 1969 c 9 s 78; 1969 c 250 s 1; 1969 c 458 s 1; 1969 c 832 s 1; 1969 c 1127 s 6] (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; 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 REGULATION OF ADVERTISING. 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; 1967 c 19 s 15] (3200-29)

340.16 [Repealed, 1965 c 581 s 3]

340.161 [Repealed, 1967 c 19 s 19]

340.17 SACRAMENTAL WINE. The provisions of the intoxicating liquor act 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 \$25 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; 1955 c 820 s 41; 1967 c 19 s 16] (3200-31)

340.18 MEDICINAL, MECHANICAL, SCIENTIFIC PURPOSES; LICENSE FOR SALE. Subdivision 1. The provisions of the intoxicating liquor act 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. The permit shall be revoked by the commissioner for any violations of the intoxicating liquor act. Any person applying for or obtaining a prescription under the intoxicating liquor act 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; 1967 c 19 s 16] (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 the intoxicating liquor act 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 the intoxicating liquor act 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 percent 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 the intoxicating liquor act, shall manufacture intoxicating liquor for the purposes of sale shall be guilty of a gross misdemeanor.

(4) Whoever, in violation of the provisions of the intoxicating liquor act, 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 the intoxicating liquor act 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 the intoxicating liquor act.

[*Ex*1934 c 46 s 13; 1939 c 101 s 3; 1939 c 248 s 1; 1967 c 19 s 16] (3200-33)

340.20 LOCAL OPTION ELECTIONS, PETITION. The recorder or clerk of any village or city of the fourth class shall, upon the petition of a number of legal voters of the village or city of the fourth class equal to 30 percent of the persons voting at the last election in such village or city of the fourth class or 200 legal voters of the village or city of the fourth class whichever is the lesser number, filed with him at least 15 days before the regular 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 or city of the fourth class 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; 1965 c 218 s 1; 1967 c 145 s 1] (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 or city of the fourth class 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 regular election at which the question of license is again and in like manner submitted.

[*Ex*1934 c 46 s 16; 1967 c 145 s 2] (3200-36)

340.22 [Repealed, 1965 c 581 s 3]

340.23 [Repealed, 1965 c 581 s 3]

340.24 [Repealed, 1965 c 581 s 3]

340.245 [Repealed, 1965 c 581 s 3]

340.25 [Repealed, 1965 c 581 s 3]

340.26 [Repealed, 1965 c 581 s 3]

340.27 [Repealed, 1965 c 581 s 3]

340.28 [Repealed, 1965 c 581 s 3]

340.29 [Repealed, 1965 c 581 s 3]

340.30 [Repealed, 1965 c 581 s 3]

340.31 [Repealed, 1965 c 581 s 3]

340.32 [Repealed, 1965 c 581 s 3]

340.323 CERTIFICATION. Whenever a local option election is held in a municipality, pursuant to the provisions of sections 340.20 and 340.21, the clerk or recorder shall certify the results of any such election to the secretary of state within ten days from the date on which such election was held.

[1951 c 416 s 1; 1965 c 581 s 1; 1967 c 145 s 3]

340.33 CONTEST OF ELECTION; MANDAMUS. Any voter may contest the validity of such election, as provided by Laws 1959, Chapter 675, Article 10, Section 8 and by sections 209.09 and 209.10; provided, that it shall be the duty of the county attorney of such county to appear in defense of the validity of such elec-

tion 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 the intoxicating liquor act 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; 1961 c 560 s 30; 1967 c 19 s 16] (S200-48)

340.34 [Repealed, 1965 c 581 s 3]

340.35 [Repealed, 1965 c 581 s 3]

340.353 MUNICIPAL LIQUOR STORES; ESTABLISHMENT; OPERATION.

Subdivision 1. **Establishment.** In any city, village, or borough having a population of not more than 10,000, according to the most recent federal decennial census, the governing body may establish, own, and operate liquor stores for the dispensing of intoxicating liquor either "on-sale" or "off-sale" or both. Such liquor stores may also sell cigars, cigarettes, ice, all forms of tobacco, non-intoxicating malt beverages, and soft drinks at retail. The authority conferred by this subdivision is limited to the type of municipality named herein.

Subd. 2. **Population change.** Any municipality in which an authorized liquor store has been established 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) continue to operate its municipal liquor store rather than issue private liquor licenses?" 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) continue to operate its municipal liquor store rather than issue private liquor licenses?" is to be submitted to the electors at the election.

Subd. 3. **Scope and application.** A city, village, or borough which lawfully established a liquor store prior to July 1, 1967 may continue to own and operate such a liquor store.

Subd. 4. **Newly formed municipalities; municipal liquor stores; liquor licenses.** No village shall establish or operate a municipal "on-sale" or "off-sale" liquor store nor issue an "on-sale" or "off-sale" liquor license until two years have expired from and after its incorporation. This provision shall not apply to a newly incorporated village which had formerly been a town or is made up of a major geographic portion of what had formerly been a town, which town had the powers of a village under Minnesota Statutes 1965, Section 368.01. Such a village may, upon its incorporation, authorize the establishment of municipal "on-sale" or "off-sale" liquor stores or the issuance of "on-sale" or "off-sale" liquor licenses. This subdivision is applicable to a village incorporated after January 1, 1966.

Subd. 5. **Issuance of licenses to private persons.** Clause 1. Notwithstanding any provision of chapter 340, which may indicate the contrary, any city, village, or borough owning and operating a municipal liquor store on the effective date of this act may, at the discretion of the governing body, issue "on-sale" liquor licenses to private persons for the operation of liquor stores in conjunction with any establishment defined in section 340.07 as a hotel or restaurant, and the requirements of those definitions relating to seating capacity and the number of guest rooms shall apply for purposes of this section. The city, village, or borough issuing any "on-sale" licenses pursuant to this subdivision shall thereafter in connection with the operation of the municipal liquor store engage in only the "off-sale" of intoxicating liquor.

Clause 2. The number of "on-sale" licenses issued pursuant to this section by any municipality shall not exceed three, if the population of the municipality is less than 5,000; four, if its population is between 5,000 and 10,000; or six, if its population is 10,000 or more. For purposes of this subdivision, population shall be established by the most recent available federal decennial census as of the date upon which a license is issued.

Clause 3. No city, village, or borough shall issue licenses as provided in this section until authorized by the voters of the city, village, or borough voting on the question at a special election called for such purpose, the election to be conducted in accordance with the applicable provisions of the Minnesota election law.

Clause 4. A municipality which issues pursuant to this section the maximum number of "on-sale" licenses permitted by subdivision 2 shall cease engaging in the "off-sale" of intoxicating liquor not later than three years from the date of issuance of the last such "on-sale" license.

[1949 c 124 s 1; 1951 c 286 s 2; 1967 c 19 s 11; 1969 c 1119 s 7; 1969 c 1127 s 7]

340.354 DECLARATION OF POLICY. Public interest in the enforcement of the laws relating to sale of intoxicating liquor in municipalities operating stores for the sale of intoxicating liquor makes it necessary that measures be taken to encourage vigilance of governing bodies and inhabitants of such municipalities to insure that such enterprises are carried on in strict accordance with law. Imputing responsibility in proper cases to the municipality for unlawful acts of its employees, as responsibility is imputed to private employers in the same business, is proper. Summary suspension of the statutory right of such municipalities to operate such stores is a proper and effective measure to encourage such vigilance by penalizing failure to maintain it. The duration of any such suspension is properly a judicial question to be determined in the light of the circumstances of each case, and the judicial power should be used for enforcing any such suspension.

[1953 c 162 s 1]

340.355 MUNICIPAL LIQUOR STORE; SUSPENSION OF OPERATION, PROCEDURE. When a municipal officer or employee of a city, village, or borough is convicted of (1) selling intoxicating liquor or non-intoxicating malt liquor to a minor or other ineligible person, (2) selling intoxicating liquor or non-intoxicating malt liquor at a time when such sale is prohibited by law, (3) selling intoxicating liquor or non-intoxicating malt liquor for re-sale, (4) selling intoxicating liquor or non-intoxicating malt liquor on which the required state tax has not been paid, (5) selling intoxicating liquor for consumption off the premises for less than the price required by law, or (6) violating statutory restrictions on gambling and gambling devices and apparatus, and when the offense resulting in such conviction has occurred in an exclusive liquor store operated by the municipality, the court in which the conviction occurs shall mail to the state liquor control commissioner within ten days of the conviction a record of the conviction. The commissioner shall thereupon send notice of the conviction to the county attorney of the county in which the municipal liquor store is located. The county attorney promptly after receipt of the notice shall commence an action in the district court in the name of the state against the municipality to suspend the operation of the store as provided by this act. The complaint shall recite the facts of the conviction and shall include a prayer for judgment suspending operation of the store for a period not exceeding 30 days. A copy of the summons and complaint shall be mailed to the liquor control commissioner. The municipality shall have ten days within which to answer, setting forth such facts as are relevant to proof of the conviction and to the determination of the penalty to be imposed.

[1953 c 162 s 2]

340.356 DISTRICT COURT, HEARING. Upon five days notice, either party may bring the matter on for summary hearing by the court without a jury in or out of term. Such evidence shall be presented at the hearing as shall bear on the conviction on which the action is predicated and on the duration of the suspension to be ordered. The liquor control commissioner may appear and present evidence on behalf of the state.

[1953 c 162 s 3]

340.357 JUDGMENT OF SUSPENSION. If the evidence at the hearing establishes the fact of the conviction for one of the offenses enumerated in section 340.355 the court may enter judgment ordering the offending municipal liquor store to be closed to the public for a period deemed by him to be proper under the circumstances and in any case not to exceed 30 days and to refrain from all sales during such period. Such judgment may provide for conditions for the suspension of the closing order during such period as is fixed by the court.

[1953 c 162 s 4]

340.358 MUNICIPAL LIQUOR STORES, NOTICE OF INTENT TO ESTABLISH. Any city of the fourth class, village of less than 10,000 inhabitants or borough which on the effective date of Laws 1961, Chapter 582, has issued "on sale" and "off sale" liquor licenses, or either of them, and which purposes to establish a municipal liquor store in place of again issuing a license or licenses for the sale of intoxicating liquor shall give public notice of such purpose and intent

not less than one year prior to the date such municipality shall engage in the sale of intoxicating liquor to the exclusion of private interests, and such public notice shall be printed in full in one issue of the legal newspaper for said municipality. This section shall not limit the power of any issuing authority to revoke any such licenses for violation by the holder thereof within such period of any local ordinance or law of the United States or of the state of Minnesota pertaining to the sale of intoxicating liquor.

[1961 c 582 s 1]

340.36 [Repealed, 1967 c 19 s 19]

340.37 [Repealed, 1967 c 19 s 19]

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

[Ex1934 c 46 s 33; 1967 c 19 s 16] (3200-53)

340.39 STATUTES, ORDINANCES; WHEN NOT OPERATIVE. Except as provided in the intoxicating liquor act, 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.

[Ex1934 c 46 s 34; 1967 c 19 s 16] (3200-54)

340.40 [Repealed, 1967 c 19 s 19]

340.401 DEFINITIONS. Subdivision 1. **Terms.** 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 percent 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 7.

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 \$1,000, for a wholesaler, the sum of \$200, and a wholesaler's malt beverage duplicate license the sum of \$15. A brewer holding a license to manufacture intoxicating malt liquor may sell his products at wholesale without another license.

[1943 c 460 s 2; 1955 c 820 s 42; 1969 c 1148 s 56]

340.403 BOND, 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 or non-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 or non-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; or (5) has not been a resident of Minnesota or has not been qualified as a corporation to do business in Minnesota for more than 90 days prior to application. In the event the applicant is a corporation its managing officers must possess the qualifications herein stated in respect to (1), (2), (3), and (4).

No wholesale malt beverage license shall be granted to any person unless he shall have within the state of Minnesota warehouse space either owned or leased by him and shall have adequate delivery facilities to perform the function of wholesaling malt beverages. Provided that the requirements of this subdivision as to residence and warehouse space shall not apply to any wholesaler in an adjoining state which permits Minnesota resident licensees to deliver malt beverages to retailers without warehousing in that state or to any wholesaler in an adjoining state delivering malt beverages manufactured in Minnesota.

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; 1961 c 299 s 1; 1965 c 482 s 1]

340.404 LICENSES; SUSPENSION, REVOCATION. 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, WHOLESALEERS; 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 April 16, 1943, 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 April 16, 1943; (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 April 16, 1943. Any such brewer or wholesaler who, within ten days after April 16, 1943, owns any furniture, fixtures, fittings, or equipment in possession of any retailer on April 16, 1943, may, within 90 days after April 16, 1943, 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 [Repealed, 1963 c 285 s 2]
- 340.411 [Repealed, 1967 c 19 s 19]
- 340.412 [Repealed, 1967 c 19 s 19]
- 340.413 [Repealed, 1967 c 19 s 19]
- 340.42 [Obsolete]
- 340.43 [Obsolete]

LIQUOR TAX

340.44 DEFINITIONS. For the purposes of sections 340.44 to 340.56:

- (1) "Brewer" means any person who manufactures malt liquor containing more than one half of one percent of alcohol by volume;
- (2) "Wholesaler" means any person who sells such malt liquor and intoxicating liquors to retail dealers;

(3) "Retailer" means any person who sells such malt liquor and intoxicating liquors to a consumer;

(4) "Commissioner" means the liquor control commissioner;

(5) "Fermented malt beverages" means any fermented malt liquor potable as a beverage containing more than one half of one percent of alcohol by volume.

[*Ex1934 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.

[*Ex1934 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.

[*Ex1934 c 58 s 3*] (3200-61)

340.461 INTOXICATING LIQUOR CARTONS, LABELS. Subdivision 1. **Contents.** Each carton containing bottles or other containers of intoxicating liquor or wine holding one-half pint or more, except those containing fermented malt beverages and 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."

The liquor control commissioner may by regulation prescribe that the labels shall be affixed to each bottle or other container of intoxicating liquor containing one-half pint or more of intoxicating liquor, rather than to the carton.

The liquor commissioner may by rule and regulation prescribe the number and denomination which may be affixed to the carton which shall be equivalent in denomination to the number of bottles therein.

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. The commissioner of administration shall prescribe such requirements and provide such supervision of the manufacturer 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 to the general 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 intoxicating liquor labels. Any person who, with intent to defraud, shall forge any such certification label, shall be guilty of forgery and punished accordingly.

[*1943 c 113 s 1-5; 1959 c 485 s 2, 3; 1963 c 753 art 2 s 4; 1965 c 808 s 1; 1969 c 399 s 1*]

EXCISE TAX

340.47 EXCISE TAX. Subdivision 1. **On intoxicating liquors.** There shall be levied and collected on all intoxicating liquors manufactured, imported, sold or in possession of any person in this state, except as herein provided by Sections 340.50 and 340.601, and except the natural fermentation of fruit juices in the home for family use 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 percent of alcohol by volume, the sum of 60 cents per gallon;

(3) On all fortified wines from 21 to 24 percent of alcohol by volume, the sum of \$1.20 per gallon;

(4) On all fortified wines containing more than 24 percent 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 beverages other than for shipment in interstate or foreign commerce. Such tax shall not be imposed or collected upon fermented malt beverages given away by a brewery for consumption only upon the brewery premises, for which no charge of any kind is made or collected; nor shall fermented malt liquors distributed to brewery employees for consumption only upon the brewery premises pursuant to a contract of employment be subject to such tax. Such tax shall be levied and collected at the rate of \$1.60 per barrel of 31 gallons, containing not more than 3.2 percent of alcohol by weight, and a tax of \$3.20 per barrel of 31 gallons containing more than 3.2 percent 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 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 percent, 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 percent 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 percent 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 percent 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 percent greater than their face tax value. This subdivision shall be effective as of July 1, 1949, and shall expire on June 30, 1959, 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. 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 general fund.

Subd. 4. [Expired, July 1, 1959]

Subd. 5. Surtax on intoxicating liquors. The several rates of taxation levied by subdivision 1 on all intoxicating liquors sold in this state are increased 15 percent except on intoxicating liquors which are within the state on June 30, 1959, and which have been sold within this state by a licensed manufacturer or wholesaler to a retailer or ultimate consumer on or before June 30, 1959. 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 surtax levied hereunder shall be reduced by a credit for any surtax previously paid pursuant to the provisions of section 340.47, subdivision 3.

Notwithstanding the provisions of subdivision 1 and section 340.60, subdivision 2, the proceeds of the surtax imposed by this subdivision shall be deposited in the state treasury to the credit of the general fund.

This subdivision expires June 30, 1971.

Subd. 6. **Additional tax.** There shall be added to the taxes determined in accordance with subdivisions 1 and 5, the following additional tax:

- (1) On all unfortified wines, the sum of four cents per gallon;
- (2) On all fortified wines from 14 to 21 percent of alcohol by volume, the sum of ten cents per gallon;
- (3) On all fortified wines from 21 to 24 percent of alcohol by volume, the sum of 20 cents per gallon;
- (4) On all fortified wines containing more than 24 percent of alcohol by volume, the sum of 20 cents per gallon;
- (5) On all natural and artificial sparkling wines containing alcohol, the sum of 20 cents per gallon;
- (6) On all other distilled spirituous liquors, liqueurs, cordials, and liquors designated as specialties regardless of alcoholic content, the sum of 75 cents 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 two cents.

[*Ex1934 c 58 s 4; Ex1937 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; 1957 c 233; Ex1957 c 1 art 7 s 4; Ex1957 c 1 art 8 s 1; Ex1959 c 70 art 10 s 1, 2; Ex1961 c 91 art 1 s 6; 1963 c 886 s 9; 1965 c 884 art 4 s 3; Ex-1967 c 32 art 14 s 9; 1969 c 399 s 1; 1969 c 881 s 11, 20*] (3200-62)

340.48 [Repealed, 1957 c 233 s 6]

340.485 TAXES ON WINES AND SPIRITUOUS LIQUORS. Subdivision 1. **Manner and time of payment; penalties; deposit of tax proceeds.** After July 1, 1959, the tax on wines and spirituous liquors, on which the excise tax has not been previously paid, shall be paid to the commissioner by persons having on file with the liquor control commissioner a good and sufficient bond as provided in subdivision 2 hereof on or before the tenth day of the month following the month in which the first sale is made in this state by a licensed manufacturer or wholesaler. Every such person liable for any tax on wines or spirituous liquors imposed by section 340.47 shall file with the commissioner on or before the tenth day of the month following first sale in this state by a licensed manufacturer or wholesaler a return in such form and showing such information as the commissioner shall by rule or regulation prescribe, and shall keep such records and render such reports as the commissioner shall by rule or regulation prescribe. If the excise tax shall not be paid when due, there shall be added to the tax an amount equivalent to five percent per month from the date the tax became due until paid. If any person shall file a false or fraudulent return, there shall be added to the tax a sum equivalent to 100 percent of the amount of the tax evaded or attempted to be evaded. Any person liable for any tax on wines or spirituous liquors not having on file a good and sufficient bond shall pay the tax within 24 hours after first sale in this state. The commissioner shall pay all monies received to the state treasurer.

Subd. 2. **Bond.** Every person making sale of wines or spirituous liquors in this state on which a tax is imposed by section 340.47 shall file with the commissioner a bond or bonds, on such forms as the commissioner shall prescribe, with surety approved by the commissioner, in a penal sum to be determined by the commissioner, not to exceed the sum of \$50,000. Such bond or bonds shall run to the state of Minnesota and shall be conditioned on the payment of all taxes due the state on wines and spirituous liquors and on the payment of all penalties lawfully imposed for failure to pay any such taxes when due.

Subd. 3. **Invoices and bills of lading covering shipment into the state.** Every person shipping or causing to be shipped into this state any wines or spirituous liquors shall at the time of shipment mail to the commissioner a true copy of the invoice, bill of lading, memorandum of shipment, or other document as the commissioner by rules shall require, showing such details as the commissioner shall by rules prescribe.

Subd. 4. **Use or redemption of unused excise stamps.** Any unused excise stamps on hand on July 1, 1959 may be submitted to the commissioner for redemption or used to pay the tax due on wines and spirituous liquors by submitting same

with a monthly return. There is hereby appropriated such funds as may be necessary to redeem such stamps.

[1959 c 485 s 1]

340.49 [Repealed, 1959 c 485 s 7]

340.491 FERMENTED MALT BEVERAGES; TAX PAYMENT. On and after the effective date of rules and regulations of the liquor control commissioner as authorized and directed by section 340.492, the purchase, affixation, and cancelation of stamps evidencing payment of the excise tax on fermented malt beverages shall no longer be required. All requirements of Minnesota Statutes, Section 340.49, for the purchase, affixation, and cancelation of such stamps shall thereafter be of no further force or effect.

[1953 c 365 s 1]

340.492 MANNER AND TIME OF PAYMENT; PENALTIES; DEPOSIT OF TAX PROCEEDS. Within 30 days after July 1, 1953, the liquor control commissioner shall issue rules adopting the reporting method for paying and collecting the excise tax on fermented malt beverages. The rules shall require such reports to be filed with and the excise tax to be paid to the commissioner on or before the fifteenth day of the month following the month in which the importation into or the first sale is made in this state, whichever first occurs. If the excise tax shall not be paid when due, there shall be added to the amount of the tax as penalty a sum equivalent to ten percent thereof, and in addition thereto interest on the tax and penalty at the rate of one percent a month or major portion thereof from the date the tax became due until paid. The commissioner shall pay all moneys received to the state treasurer and the same shall be deposited in the funds as provided by Minnesota Statutes, Section 340.47, Subdivisions 2 and 4. The reports required by such rules and the payments in accordance therewith are in lieu of and constitute compliance with the requirements of Minnesota Statutes, Section 340.49, for the purchase, affixation, and cancelation of stamps on any barrel, keg, case, or other container in which fermented malt beverages are sold.

[1953 c 365 s 2]

340.493 FERMENTED MALT BEVERAGES; SHIPMENT INTO STATE; LICENSES. Subdivision 1. **Requirement of license.** No fermented malt beverage shall be shipped into this state by any person to any licensed Minnesota wholesaler unless and until such person, has secured a license from the liquor control commissioner permitting him so to do.

Subd. 2. **Licenses; application, renewal.** Such licenses shall be issued by the liquor control commissioner for one year and must be renewed annually. The application for such license shall contain an agreement on the part of the applicant that he will observe all laws of this state relating to the importation and taxation of such fermented malt beverages and such other information and statements as the commissioner requires. Any person who has violated any laws of this state relating to fermented malt beverages or intoxicating liquor is not entitled to such license. The fee for each annual license is \$100 which shall accompany the application for license. If an examination of the financial responsibility of any such applicant for license indicates that a bond is necessary for the protection of the revenue, the commissioner may require the applicant to file a bond to be approved by the commissioner, payable to the state in an amount not less than \$1,000 and not more than \$5,000 conditioned upon the payment of all excise taxes to become payable to the state.

Subd. 3. **Suspension; revocation.** The commissioner may suspend or revoke licenses for any violation by the licensee of Minnesota Statutes, Section 340.02, Subdivision 2, or Section 340.405, or any law of this state relating to the excise tax or the sale of fermented malt beverages.

Subd. 4. **Disposition of proceeds.** All sums collected by the commissioner from license fees shall be paid into the general fund.

Subd. 5. **Penalty.** Any person who ships or causes to be shipped into this state any fermented malt beverage without having a license so to do is guilty of a gross misdemeanor.

[1953 c 365 s 3; 1955 c 820 s 43; 1969 c 399 s 1; 1969 c 1148 s 57]

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.

[*Ex1934 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 these sections are being complied with.

[*Ex1934 c 58 s 7*] (*\$200-65*)

340.52 [Repealed, 1959 c 485 s 7]

340.53 UNLAWFUL AFFIXING OF LABELS; FORGERY, 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.

[*Ex1934 c 58 s 9*] (*\$200-67*)

340.54 UNSTAMPED LIQUOR. Subdivision 1. **Possession gross misdemeanor; seizure; confiscation.** It is a gross misdemeanor for any person to have in his possession any intoxicating liquor upon which no tax has been paid to any state or foreign government if such person is without authority to have such untaxed intoxicating liquor. It is a gross misdemeanor for any person to have in his possession any fermented malt liquor, upon which no tax has been paid to any state or foreign government, if such person intends to sell such fermented malt liquor and if such person is without authority to have such untaxed fermented malt liquor. 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 such untaxed intoxicating liquor and, in the case of fermented malt liquor such fermented malt liquor, if intended for sale. The commissioner shall seize and confiscate any material, apparatus, vehicle or conveyance used in the illegal manufacture, sale, possession or storage of any intoxicating liquor or any vehicle or conveyance used in the transportation of such intoxicating liquor or fermented malt liquor subject to seizure hereunder, material, or apparatus in possession, under control, sold, or transported in any manner in violation of sections 340.07 to 340.96, and to immediately arrest and as soon as possible make proper complaint in court against any person or persons in charge of the vehicle or conveyance seized.

Subd. 2. **Seizure of conveyances; complaints; procedure in district court.** The liquor control commissioner and his designated inspectors and employees shall seize all vehicles and conveyances used in the manufacture, sale, possession, storage or transportation of liquor in violation of sections 340.07 to 340.96, and hold them subject to the order of the district court of the county in which they are seized. The confiscation of any vehicle or conveyance seized hereunder shall be complete upon compliance with the following procedure:

The liquor control commissioner and his designated inspectors and employees shall file with the court a separate complaint against the vehicle or conveyance, describing the same and charging its use in the specified violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint shall

be served upon the defendant or person in charge of the vehicle or conveyance at the time of seizure, if any. The court shall issue an order directed to any person known or believed to have any right or title or interest in, or lien upon, any such vehicle or conveyance, and to persons unknown claiming any such right, title, interest or lien, describing the vehicle or conveyance and stating that the same was seized and that a complaint against the same, charging the specified violation, has been filed with the court, and requiring such persons to file with the clerk of the court their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon any such vehicle or conveyance, within ten days after the service of such order as herein provided, and notifying them in substance that if they fail to so file their answer within that time, the vehicle or conveyance will be ordered sold by the commissioner or his agents. The court shall cause the order to be served upon the registered owner and upon any person who has duly filed a conditional sales contract, mortgage or other lien instrument covering the property unless the same has been released or satisfied, and upon any other person known or believed to have any right, title, interest in, or lien upon, any such vehicle or conveyance as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed as and within the time prescribed, the court shall, upon affidavit by the clerk of the court, setting forth such fact, order the vehicle or conveyance sold by the commissioner or his agents, and the proceeds of the sale, after deducting the expense of keeping the vehicle or conveyance and fees and costs of sale, paid into the state treasury. If answer is filed as and within the time herein provided, the court shall fix a time for hearing, which shall be not less than 10 nor more than 30 days after the time for filing answer expires. At the time so fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court, without a jury, as in other civil actions. If the court shall find that the vehicle or conveyance, or any part thereof, was used in any such violation as specified in the complaint, he shall order the vehicle or conveyance so unlawfully used, sold as herein provided, unless the owner shall show to the satisfaction of the court that the vehicle was being used without his consent or that at the time of giving such consent he had no notice or knowledge or reason to believe that the vehicle or conveyance was intended to be used in any such violation. The officer making any such sale after deducting the expense of keeping the vehicle or conveyance, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge at the time the lien was created that such vehicle or conveyance was being used or was intended to be used for or in connection with any such violation as specified in the order of the court, and shall pay the balance of the proceeds into the state treasury. Any sale under the provisions of this section shall operate to free the vehicle or conveyance sold from any and all liens thereon, and appeal from such order of the district court will lie to the supreme court as in other civil actions. At any time after seizure thereof, and before the hearing herein provided for, the vehicle or conveyance shall be returned to the owner or person having a legal right to possession thereof, upon execution by him of a good and valid bond to the state of Minnesota, with corporate surety, in the sum of not less than \$100 and not more than double the value of the vehicle or conveyance seized, to be approved by the court in which the case is triable, or a judge thereof, conditioned to abide any order and the judgment of the court, and to pay the full value of the vehicle or conveyance at the time of seizure.

[*Ex*1934 c 58 s 10; 1945 c 310 s 1; 1953 c 729 s 1; 1959 c 485 s 4; 1965 c 444 s 1] (3200-68)

340.55 FELONIES. 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 any person who in any manner sells intoxicating liquor without the proper Minnesota excise tax having been paid thereon, and who thereby evades, avoids and defrauds the state of the payment of the tax upon such intoxicating liquor shall be guilty of a felony.

[*Ex1934 c 58 s 11; 1957 c 233 s 3; 1959 c 485 s 5*] (3200-69)

340.56 GROSS MISDEMEANORS. 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 gross misdemeanor.

[*Ex1934 c 58 s 12; 1957 c 233 s 4*] (3200-70)

340.57 CERTAIN CITIES MAY ISSUE 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. And provided further that no change of location heretofore authorized by the foregoing amendment set forth in Laws 1949, Chapter 536, may be accomplished after July 1, 1953, but all licenses issued, renewed, reissued or relocated pursuant to said chapter may continue to be renewed, reissued or relocated pursuant to the terms thereof.

[*1935 c 78 s 1; 1949 c 536 s 1; 1953 c 440 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 percent 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 the intoxicating liquor act 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 percentage of taxes collected.** Thirty percent of the proceeds of the taxes collected under section 340.47, 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. In computing the population of counties, cities, villages and boroughs the state auditor shall add increases in population disclosed by reason of any special census conducted under subdivision 7 to the population of the political subdivision conducting the census and to the population of the county in which the political subdivision is located. 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 boroughs 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; provided, however, that in counties having an assessed valuation of over \$10,000,000 and less than \$14,000,000 exclusive of money and credits, and having over 23,000 and less than 25,000 inhabitants according to the 1950 federal census and having over 25 and less than 40 full and fractional congressional townships, the county shall credit such amount to the road and bridge fund for unorganized territory.

Subd. 3. **Apportionment of taxes allocated; appropriation.** 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.

There is hereby appropriated from the fund or account in the state treasury to which the money is credited, such sums as may, from time to time, be necessary to pay these warrants.

Subd. 4. **Certified list of counties and municipalities.** The secretary of state shall deliver to the state auditor, within 90 days after April 27, 1947, 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. M.S. 1945 [Repealed, 1949 c 501 s 1]

Subd. 7. Special census. In the year 1965, and each tenth year thereafter the governing body of any city, village, or borough, may by resolution, request the federal director of the census to take a special census for the purpose of determining the population for the purpose of receiving tax distributions under this section. A certified copy of the results of such census shall be filed with the state auditor by the political subdivision conducting the census and after such filing and until the completion of the next federal decennial census the population of the city, village, or borough shall be that disclosed by the special census. The expense of taking such census shall be paid by the municipality requesting such census.

[1935 c 130 s 1; 1947 c 601 s 2; 1955 c 377 s 1; 1959 c 158 s 27; 1963 c 282 s 3, 4; 1967 c 19 s 16] (S200-75)

NOTE: See section 297.13, subdivision 8.

340.601 IMPORT; TAX EVASION, MISDEMEANOR. Any person, excluding persons of minor age and other disqualified persons as provided by sections 340.73 and 340.78, who enters the state of Minnesota from another state may have in his personal possession one quart (32 ounces) of intoxicating liquor or who enters the state of Minnesota from a foreign country may have in his possession one gallon (128 ounces) of intoxicating liquor without the required payment of the Minnesota excise tax. Any person who shall import or have in his possession any such untaxed intoxicating liquor in excess of the quantities provided for in this section is guilty of a misdemeanor. The foregoing provisions do not apply to the consignments of alcoholic beverages shipped into this state by holders of Minnesota import licenses or Minnesota manufacturers and wholesalers of such beverages when duly licensed by the commissioner or to common carriers with licenses to sell intoxicating liquor in more than one state. Any peace officer, the commissioner, or his authorized agents, may seize such untaxed liquor.

[1947 c 601 s 3; 1957 c 233 s 5; 1961 c 496 s 1; 1963 c 439 s 1]

340.602 [Repealed, 1953 c 695 s 3]

340.61 [Repealed, 1953 c 695 s 3]

340.62 CERTAIN LIQUOR 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 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 manu-

facturer 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 fund.

[1935 c 390 s 1; 1943 c 308 s 1; 1945 c 291 s 1; 1969 c 399 s 1] (3200-78)

SEIZED LIQUOR, DISPOSAL

340.63 SEIZED LIQUORS; DESTRUCTION, DISPOSAL. 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 commissioner of public welfare, 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 deduction 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 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; 1969 c 399 s 1] (3200-79)

340.64 REPORT TO DEPARTMENT OF PUBLIC WELFARE. The liquor control commissioner shall make a report to the department of public welfare 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, SEIZURE

340.65 SEARCH, SEIZURE. Search warrants may be issued in connection with violation of the Minnesota liquor control act or other acts relating to sale, taxation, transportation, manufacture or possession of liquor in accordance with Laws 1963, Chapter 849.

[1937 c 185 s 1; 1963 c 849 s 2] (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 [Repealed, 1963 c 849 s 17]

VIOLATIONS, PENALTIES

340.69 [Repealed, 1963 c 753 art 2 s 17]

340.70 CERTAIN ACTS 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, 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 [Repealed, 1967 c 19 s 19]

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, deliver, 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 intoxicated person, 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; 1961 c 390 s 2; 1969 c 819 s 1] (3238-4)

340.731 MINORS, FORBIDDEN ACTS OR STATEMENTS. 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 percent of alcohol by volume or

(2) a minor to consume any intoxicating liquor or to purchase, attempt to purchase or have another purchase for him or her any intoxicating liquor; or

(3) any person to misrepresent or misstate 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; or

(4) a minor to have in his possession any intoxicating liquor, with intent to consume same at a place other than the household of his parent or guardian. Possession of such intoxicating liquor at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian.

[1949 c 415 s 1; 1953 c 483 s 2; 1957 c 415 s 2]

340.732 VIOLATIONS, 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 [Repealed, 1967 c 19 s 19]

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 AND OTHERS, 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 MINOR TO ENTER SALOON. 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 [Repealed, 1969 c 9 s 102]

340.83 SALES TO PAROLEES FROM STATE INSTITUTIONS. Subdivision 1. 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 subdivision 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.

Subd. 2. Subdivision 1 shall not apply to persons who have no knowledge that the person procuring such liquors is such paroled person.

[1905 c 72 s 1, 2] (3238-14, 3238-15)

340.84 [Renumbered 340.83, subd. 2]

340.85 OFFICERS, DUTIES. Subdivision 1. 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 bylaws of such municipality to the contrary notwithstanding.

Subd. 2. When any municipal liquor store or licensed dealer in intoxicating liquor or non-intoxicating fermented malt beverages, his agent or employee is convicted of (1) a violation of any provision of chapter 340 or any law or ordinance regulating the sale of alcoholic beverages or (2) any violation of law or ordinance in the operation of the licensed premises, the clerk of the court or the justice of the peace shall, within ten days after the conviction, mail a written notice of conviction to the clerk of the municipality or the county auditor of the county having jurisdiction to issue alcoholic beverage licenses for the premises. A copy of the notice shall also be mailed to the office of the liquor control commissioner.

[R L s 1561; 1955 c 57 s 1] (3238-16)

340.86 OFFICERS, NEGLECT OF DUTIES. 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 TRAINS OR STREET CARS. No person shall while intoxicated enter or be or remain upon a railway train or street car as a passenger.

[1911 c 28 s 1; 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 s 1; 1913 c 417 s 2] (3238-20)

340.90 DRINKING ON TRAINS, STREET CARS; PENALTY FOR PERMITTING. 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 s 1; 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 s 1; 1913 c 417 s 4] (3238-22)

340.92 INTOXICATED PERSONS LEAVING TRAINS. 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 s 1; 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 s 1; 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)

340.942 EVIDENCE OF DEFENDANT RE INVESTIGATION OF STATUS OF PURCHASER. In any criminal proceeding for the enforcement of the provisions of Minnesota Statutes, sections 340.035, 340.73, 340.82, 340.83, 340.941, relating to the sale or furnishing of non-intoxicating malt liquor or intoxicating liquor to the persons described therein, the defendant may establish by competent evidence that he has made a bona fide and careful investigation of the status of such person and he has determined upon evidence sufficient to convince a careful and prudent person that such sale is not a violation of said sections; such evidence shall be considered in determining whether the defendant is guilty of intent to violate said laws.

[1957c 823 s 1; 1969 c 6 s 44]

340.95 INJURIES CAUSED BY INTOXICATION, CIVIL ACTIONS. 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)

340.951 NOTICE OF INJURY. From and after July 1, 1969, every person who claims damages from any municipality owning and operating a municipal liquor store or from the licensee of any licensed liquor establishment for or on account of any injury within the scope of section 340.95, shall give a written notice to the governing body of the municipality or the licensee of the liquor establishment, as the case may be, stating:

(1) The time and date when, and person to whom such liquor was sold, bartered, or given;

(2) The name and address of the person or persons who were injured or whose property was damaged;

(3) The approximate time and date and the place where any injury to person or property occurred.

No error or omission in the notice shall void the effect of the notice, if otherwise valid, unless such error or omission is of a substantially material nature.

This notice shall be served within 120 days after the injury occurs, and no action therefor shall be maintained unless such notice has been given, and unless it is commenced within three years after such injury. The time for giving the notice shall not include any period of time next succeeding the occurrence of the injury during which the person injured is incapacitated from giving such notice by reason of the injury sustained.

Actual notice of sufficient facts to reasonably put the governing body of the municipality or the licensee of the liquor establishment, as the case may be, or its insurer, on notice of a possible claim, shall be construed to comply with the notice requirements herein.

Any cause of action for injury heretofore caused by an intoxicated person as a result of an illegal sale, barter or gift of liquor and not barred by the existing statute of limitations may be brought within three years after the cause of action accrued or within six months after July 1, 1969, whichever is later, if notice thereof is given within 120 days of July 1, 1969.

[1969 c 952 s 1]

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)

LIQUORS, WINES; MINIMUM RESALE PRICES

340.97 DECLARATION OF POLICY. It is the declared policy of the state that it is necessary to regulate and control the manufacture, sale and distribution within the state of distilled liquor and wine for the purpose of fostering and promoting temperance in their consumption and respect for and obedience to the law. In order to eliminate price wars which unduly stimulate the sale and consumption of distilled liquor and wine, disrupt the orderly sale and distribution thereof, and tend to destroy the statutory plan for location of off-premises liquor stores in neighborhood communities which most effectively serves public convenience and advantage, it is hereby declared as the policy of the state that the sale of distilled liquor and wine should be subjected to certain restrictions, prohibitions and regulations. The necessity for

the enactment of the provisions of this section is, therefore, declared as a matter of legislative determination.

[1951 c 400 s 1]

340.971 DEFINITIONS. Unless the language or the context in sections 340.97 to 340.978 clearly indicates that a different meaning is intended, the words, terms, and phrases hereinafter defined shall be given the meanings subjoined to them.

"Brand Owner" shall mean the manufacturer, or producer of distilled liquor and wine, or other person who actually owns the brand name.

"Off Sale Retailer" shall mean any off sale licensee or any municipal liquor store.

"Wholesaler" shall mean the authorized distributor, licensed in the state, duly appointed by the brand owner.

"Minimum Price" shall mean the minimum retail selling price to the consumer as designated by the brand owner or his authorized wholesaler or agent.

"Commissioner" shall mean the liquor control commissioner.

"Consumer" means any person who may purchase distilled liquor or wine for beverage purposes.

"Distilled Liquor" means intoxicating liquor in which the alcoholic contents are produced principally by distillation process and sold for beverage purposes.

"Wine" means wine as defined by Commissioner's Regulation No. 14 and the United States Internal Revenue Act as amended in 1937 and the United States Internal Revenue Regulation No. 7.

[1951 c 400 s 2]

340.972 SCHEDULE OF PRICES. No brand owner, or wholesaler of distilled liquor or wine shall sell, offer for sale, solicit any order for or advertise any distilled liquor or wine, the container of which bears a label stating the brand or the name of the owner or producer, unless a schedule of minimum consumer resale prices for each such brand of distilled liquor and wine shall first have been filed with the liquor control commissioner, and such schedule is then in effect, except that written permission thereof may be granted by the commissioner to off-premises retailers for good cause shown and for reasons not inconsistent with the purposes of sections 340.97 to 340.978 and under such terms and conditions as prescribed by the commissioner.

[1951 c 400 s 3]

340.973 SCHEDULE, BY WHOM FILED. (a) Such schedule shall be filed with the commissioner by:

- (1) the brand owner if licensed by the commissioner, or
- (2) the licensed wholesaler who is the exclusive distributor of a brand label, or
- (3) the licensed wholesaler who has been authorized by the brand owner to file price schedules, or
- (4) the wholesaler when such wholesaler is the brand owner, or
- (5) any person who may be the registered owner of a brand label of distilled liquor or wine.

(b) Such schedule shall be in writing duly verified, and filed in the number of copies and in the form required by the commissioner, and shall contain with respect to each brand, the brand or trade name, capacity of the container, nature of contents, age and proof where stated on the label, percentage and type of spirits where stated on the label, the minimum consumer resale price of a bottle and/or a case, but not a multiple of a bottle price or case price or a fraction of a case price. Such prices shall be uniform throughout the state.

(c) The first schedule shall be filed on or before June 1st, 1951, and the prices thereon shall become effective on July 1st, 1951. Subsequent schedules shall be filed thereafter according to regulations provided by the commissioner; but shall be filed not less than 30 days before they become effective.

(d) Provided, however, nothing contained herein shall require any brand owner or wholesaler to file a schedule of minimum consumer resale prices for any brand of distilled liquor or wine offered for sale or sold to on-premise retailers under a brand which is owned exclusively by such brand owner or wholesaler and is sold by such brand owner or wholesaler exclusively to retailers for consumption on the premises.

[1951 c 400 s 4]

340.974 MINIMUM CONSUMER RETAIL PRICE LIST. Within ten days after the filing of such schedules the commissioner shall make them, or a composite there-

of, available for inspection. Each manufacturer or wholesaler shall retain in his licensed premises a copy of his filed schedules. The commissioner may if he deems necessary require that such schedules be published. Publication in either a legal newspaper or a trade publication, approved by the commissioner, shall be compliance with any requirement that such schedules be published. The commissioner shall, as soon as practicable, after the tenth day of the month in which such schedules are filed, compile and furnish to each manufacturer or wholesaler of liquor and wine and to each off sale retailer a list to be designated "minimum consumer retail price list." Such schedule as then in effect shall be kept available at all licensed "off sale" premises so that they can be readily inspected by customers upon request.

[1951 c 400 s 5]

340.975 NO SALES AT LESS THAN RETAIL LIST PRICE. No off sale retailer authorized to sell distilled liquor or wine at retail for off-premises consumption shall sell, offer to sell, or advertise any distilled liquor or wine at a price less than the minimum consumer resale price then in effect, unless written permission of the commissioner is granted under the terms of sections 340.97 to 340.978.

[1951 c 400 s 6]

340.976 RULES. The commissioner is hereby authorized to promulgate rules which are necessary,

(a) to carry out the purposes of sections 340.97 to 340.978 and to prevent its circumvention by any off sale retailer through offering or giving of any rebate, allowance, free goods, discount or any other thing or service of value;

(b) to permit or require the withdrawal of, an addition to, a deletion from, or an amendment of any schedule or a modification of prices therein, not inconsistent with the purposes of these sections, and when necessary to avoid practical difficulties, or unnecessary hardships to any brand owner, wholesaler or licensee affected by this section, or because of acts or circumstances beyond the control of such brand owner, wholesaler or licensee, and under such terms and conditions as are necessary to carry out the purposes of these sections;

(c) to permit the sale at a price less than the minimum consumer resale price of distilled liquor or wine which is damaged or deteriorated in quality, or the close-out of a brand for the purpose of discontinuing its sale, under such terms and conditions as are necessary to carry out the purposes of these sections;

(d) to permit the sale by an off sale retailer of a brand of liquor or wine for which a schedule of minimum consumer resale prices has not been and cannot be filed, whenever necessary to avoid practical difficulties or unnecessary hardships to any off sale retailer affected by these sections or because of acts or circumstances beyond the control of such off sale retailer, and under such terms and conditions as designated by the commissioner.

[1951 c 400 s 7]

340.977 VIOLATIONS. Subdivision 1. **Violation.** Any licensee or municipal liquor store under Chapter 340 who violates the provisions of sections 340.97 to 340.978, or who aids, conspires, or joins such violation shall be guilty of a misdemeanor.

Subd. 2. **Penalties.** Upon conviction for the violation of any provision of sections 340.97 to 340.978 or of any rule duly promulgated thereunder the commissioner shall suspend, cancel or revoke any off sale retailers license or any municipal authorization to operate as follows: for a first offense, not exceeding ten days suspension of license or operating authority; for a second offense, not exceeding 30 days suspension of license or operating authority; and for a third offense, the commissioner may suspend, cancel, or revoke the license or operating authority and in addition, for such offense, the commissioner may recover, as provided in Minnesota Statutes, Section 340.12, the penal sum of the bond filed by the off sale retailer.

[1951 c 400 s 8, 9]

340.978 FEES. Commencing July 1, 1951, every off sale retailer, including municipal liquor stores, shall pay an annual fee of \$10 to the commissioner for the purpose of defraying the expenses incurred by the commissioner in carrying out the provisions of sections 340.97 to 340.977 relating to the filing price lists and the publication thereof, including employment of necessary personnel; and it shall be a violation of these sections and punishable as such for any off sale retailer, including municipal liquor stores to sell any intoxicating liquor or wines at off sale

without first paying said annual fee. The fees so collected and received by the commissioner shall be paid into the general fund of the state.

[1951 c 400 s 10; 1969 c 399 s 1]

340.98 NECESSITY FOR ENACTMENT. In order that it may be determined whether or not the fixing of minimum resale prices on distilled liquor or wine fosters and promotes temperance, fair competition, and is in the public interest, this enactment is necessary.

[1969 c 1119 s 1]

340.981 SUSPENSION OF SECTIONS 340.97 TO 340.978; STUDIES AND REPORT. The provisions of Minnesota Statutes 1967, Sections 340.97 to 340.978, are suspended for the period commencing on the date of final enactment of Laws 1969, Chapter 1119 and ending June 30, 1971. During such period the liquor control commissioner shall carefully observe and study the effect of the enactment of this section and shall report to the next regular session of the legislature and not later than January 15, 1971, in regard thereto.

[1969 c 1119 s 2]

340.982 COMMENCEMENT OF ACTIONS PROHIBITED. No action, civil or criminal, arising out of a violation of any of the provisions of the laws suspended by Laws 1969, Chapter 1119 during the period of their suspension shall be commenced by any person.

[1969 c 1119 s 3]

340.983 FILING OF WHOLESALE PRICE SCHEDULE. No brand owner or wholesaler of distilled liquor or wine shall sell, offer for sale, or solicit any order for distilled liquor or wine unless a schedule of wholesale prices, which may include varying volume prices, is filed with the commissioner and no sales shall be made except in accordance with such prices.

[1969 c 1119 s 4]

340.984 UNLAWFUL AGREEMENTS. It shall be unlawful for any wholesaler to enter into an agreement with a manufacturer by the terms of which the manufacturer is prohibited from supplying intoxicating liquor to any other wholesaler within the state. Any such agreement, whether entered into before or after June 7, 1969, is hereby declared to be contrary to public policy and void. In addition, the entering into of any agreement prohibited by Laws 1969, Chapter 1119 after the effective date of enactment shall constitute grounds for revocation of a wholesaler's license.

[1969 c 1119 s 5]

340.985 PRICE ADVERTISING PROHIBITED. No retailer at off sale of intoxicating liquor or wine shall advertise the price at which such products are offered for sale in any manner whatsoever. Such retailer may attach price tags to such products and display the same within the confines of his retail establishment, including display windows.

No wholesaler shall advertise to the public the price or a suggested price at which any intoxicating liquor or wine will be sold at retail.

The liquor control commissioner shall have power to make all reasonable regulations to effect the object of this section.

[1969 c 1119 s 6]