

MINNESOTA STATUTES 1977 SUPPLEMENT

340.039 INTOXICATING LIQUORS

CHAPTER 340. INTOXICATING LIQUORS

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340.039 Driver's license or Minnesota identification card.

Proof of age for purposes of consuming, purchasing, or possessing an alcoholic beverage, the consumption, sale, or possession of which is regulated by age, may only be established by a valid driver's license or a current Minnesota identification card issued pursuant to section 171.07.

[1977 c 347 s 51; 1977 c 361 s 4]

340.11 Licenses.

[For text of subds 1 to 11, see M.S.1976]

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 by the commission created in sections 473.551 to 473.595 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.

[For text of subds 11b to 14, see M.S.1976]

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. It is also lawful for a collector of commemorative bottles, as these terms are defined in section 340.44, to sell commemorative bottles to another collector without obtaining a license.

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

[For text of subd 17, see M.S.1976]

Subd. 18. **Additional licenses; referendum.** The governing body of any city, including statutory cities and cities issuing "on-sale" licenses pursuant to section 340.353 may issue "on-sale" licenses in excess of the number authorized by this section, upon authorization by the voters of the municipality voting at a special election called for such purpose or at the general election in the municipality. Such governing body may by majority vote direct that either of the following questions be placed on the ballot at a special election called for such purposes or at a general election of the city: "Shall the city council be allowed to issue 'on-sale' licenses for the sale of intoxicating liquor at retail in excess of the number now permitted by law?", or: " Shall the city council be allowed to issue"on-sale" licenses for the

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sale of intoxicating liquor at retail in addition to the number now permitted by law?" If a majority of voters voting on the question at such election vote in the affirmative, the governing body may issue "on-sale" licenses in such number as shall be determined by the referendum.

[For text of subds 19 and 20, see M.S.1976]

[1977 c 56 s 1; 1977 c 89 s 14; 1977 c 217 s 1; 1977 c 239 s 1]

NOTE: Laws 1977, Chapter 89, Section 14, which amends subdivision 11a, is effective in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, pursuant to Laws 1977, Chapter 89, Section 15.

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 commissioner of public safety except where otherwise stated;
- (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;
- (6) "Collector" means a person who collects commemorative bottles for their use and enjoyment as collectors items and not for the consumption of the beverage contained therein and shall not include persons who are wholesalers or retailers as defined in clause (2) or (3) above;
- (7) "Commemorative bottle" means ceramic commemorative bottles or other specially designed decanters which have value as collectors items and which have unbroken federal tax stamps thereon.

[1977 c 217 s 2; 1977 c 407 s 2]

340.47 Excise tax.

[For text of subd 1, see M.S.1976]

Subd. 1a. **Metric containers.** In lieu of the tax imposed by subdivision 1, there shall be levied and collected on all intoxicating liquors manufactured, imported, sold or in possession of any person in this state when packaged in containers where the net contents is stated in metric units of measure, 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 seven cents per liter;
- (2) On all fortified wines from 14 to 21 percent of alcohol by volume, the sum of 21 cents per liter;
- (3) On all fortified wines from 21 to 24 percent of alcohol by volume, the sum of 42 cents per liter;
- (4) On all fortified wines containing more than 24 percent of alcohol by volume, the sum of 81 cents per liter;
- (5) On all natural and artificial sparkling wines containing alcohol, the sum of 81 cents per liter;

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(6) On all other distilled spirituous liquors, liqueurs, cordials, and liquors designated as specialties regardless of alcoholic content, the sum of \$1.16 per liter, but not including ethyl alcohol; provided, that in computing the tax on any package of intoxicating liquors where the net contents is stated in metric units of measure, a proportional tax at a like rate on all fractional or multiple parts of a liter shall be paid, provided, however, that the contents of miniatures containing 50 milliliters or less shall be taxed 12 cents.

[For text of subds 2 and 2a, see M.S.1976]

Subd. 2b. Conversion to metric. The commissioner of revenue may establish by rule a date and procedure for the conversion of excise tax computation and reporting from rates expressed in gallons to rates expressed in metric volumes. The official conversion factor shall be one liter equals 0.264172 U.S. gallons.

[1977 c 407 s 3,4]

340.485 Taxes on wines and spirituous liquors.

Subdivision 1. Manner and time of payment; penalties; deposit of tax proceeds. The tax on wines and spirituous liquors, on which the excise tax has not been previously paid, shall be paid to the commissioner of revenue by persons having on file with the commissioner of revenue a sufficient bond as provided in subdivision 2 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 of revenue 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 of revenue shall by rule prescribe, and shall keep records and render reports as the commissioner of revenue shall by rule prescribe. If the excise tax is not 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 files 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 sufficient bond shall pay the tax within 24 hours after first sale in this state. The commissioner of revenue shall pay all moneys received in the general fund. The commissioner of revenue may certify to the commissioner of public safety any failure to pay taxes when due as a violation of a statute relating to the sale of intoxicating liquor for possible revocation or suspension of license under section 340.135.

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 of revenue a bond or bonds, on such forms as the commissioner of revenue shall prescribe, with surety approved by the commissioner, in a penal sum to be determined by the commissioner of revenue, not to exceed two times the average monthly liability of that person for the calendar year preceding, or for a new wholesaler an amount determined by the commissioner of revenue based on an estimated two month liability. 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.

[For text of subd 3, see M.S.1976]

[1977 c 407 s 5,6]

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

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any church or established religious organization, of wine for sacramental purposes or the sale of commemorative bottles between collectors be subject to the payment of such tax.

[1977 c 217 s 3]

340.51 Enforcement; employees; record of sale of stamps; inspection of books and premises.

The commissioner of public safety and the commissioner of revenue 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 their duties thereunder.

The commissioner of revenue 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 of revenue 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 of public safety or the commissioner of revenue, or their 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.

[1977 c 407 s 7]

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 commissioner of public safety or the commissioner of revenue or their 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. Either 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.

[For text of subd 2, see M.S.1976]

[1977 c 407 s 8]

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 of public safety and the commissioner of revenue, or in any man-

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ner 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.

[1977 c 407 s 9]

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 fermented malt beverages or who enters the state of Minnesota from a foreign country may have in his possession one gallon (128 ounces) of intoxicating liquor or ten quarts (320 ounces) of fermented malt beverages without the required payment of the Minnesota excise tax. Any collector of commemorative bottles as defined in section 340.44, clauses (6) and (7), 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 12 or fewer commemorative bottles without the required payment of the Minnesota excise tax. Any person who shall import or have in his possession any such untaxed intoxicating liquor or fermented malt beverages 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.

[1977 c 217 s 4]

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 or bartering 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. Actions for damages based upon liability imposed by this section shall be governed by section 604.01. The provisions of section 604.01, as applied under this section, however shall not be applicable to actions brought by a husband, wife, child, parent, guardian or other dependent of an intoxicated person. No recovery shall be had in any action or actions pursuant to this section in excess of \$250,000 for all damages to one person and \$500,000 for all damages to two or more persons arising out of a single instance of the illegal sale or barter of intoxicating liquor.

[1977 c 390 s 1]

340.951 Notice of injury.

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;

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(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 one year 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.

[1977 c 390 s 2]

CHAPTER 343. PREVENTION OF CRUELTY

Sec.		Sec.	
343.01	Purposes; powers; county organization.	343.07	Repealed.
343.02	Repealed.	343.08	Biennial report.
343.03	Repealed.	343.09	Repealed.
343.04	Repealed.	343.12	Duties of peace officers.
343.05	Repealed.		
343.06	Duties.		

343.01 Purposes; powers; county organization.

Subdivision 1. The Minnesota humane society is hereby confirmed and continued, with all existing powers, for the purpose of inculcating humane principles, the enforcement of law, and the prevention of cruelty, especially to animals. The Minnesota humane society may make reasonable rules governing the humane care, treatment, transportation, and in extreme cases the disposition by death or sale of animals as it deems expedient to accomplish its purposes. It may appoint representatives in any county where no active county society exists, for the purpose of receiving and accounting for funds from any source, and may also appoint agents at large to carry out the work of the society throughout the state. This society and all county societies may appoint agents for the purpose of investigating or otherwise assisting lawfully empowered officials in the prosecution of persons charged with cruelty to animals. Branches of the society, consisting of not less than ten members, may be organized in any part of the state to prosecute the work of the society in their several localities under rules established by it. It may make rules and bylaws as are necessary to implement the provisions of this chapter.

Subd. 2. It shall be unlawful for any organization, association, firm or corporation not authorized by this chapter to refer to itself as or in any way to use the names Minnesota society for the prevention of cruelty, the Minnesota humane society, or any combination of words or phrases using the above names which would imply that it represents, acts in behalf or is a branch of said society.

Subd. 3. The society shall be governed by a board of directors consisting of seven persons appointed by the governor. The governor, the commissioner of education and the attorney general, or their designees shall serve as ex-officio, non-voting members of the board. The membership terms, compensation, removal and filling of vacancies of board members other than ex-officio members shall be as provided in section 15.0575; provided that the terms of two initial members shall expire in each of 1979, 1980, and 1981, and the term of the seventh initial member shall expire in 1982. The members of the board shall annually elect a chairman and other officers as deemed necessary. Meetings shall be called by the chairman or at least two other members. The board may employ staff who shall serve in the unclassified civil service at the pleasure of the board. The commissioner of adminis-