

Police Regulations

CHAPTER 340

INTOXICATING LIQUORS

NON-INTOXICATING MALT LIQUOR ACT

- 340.001 Definitions.
- 340.01 Licenses.
- 340.013 Non-intoxicating malt liquor license fees; division.
- 340.02 License when required to sell; fees.
- 340.024 Sheriff's contingent fund; creation, expenditures, withdrawals, transfer to general fund.
- 340.031 Manufacturers and wholesalers.
- 340.032 Importers.
- 340.033 Size of containers.
- 340.034 Sales; closing hours.
- 340.035 Persons under 19 years; penalty.
- 340.036 Penalties.
- 340.038 Citation.

PROOF OF AGE

- 340.039 Proof of age.

INTOXICATING LIQUOR ACT

- 340.069 Citation.
- 340.07 Definitions.
- 340.081 Transfer of powers and duties.
- 340.10 Publishing regulations.
- 340.11 Licenses.
- 340.112 License fee, refund.
- 340.113 Importers of intoxicating liquors.
- 340.114 Unlawful discrimination prohibited.
- 340.115 Intoxicating malt beverages made outside state; shipment into state.
- 340.119 Bottle clubs; penalty.
- 340.12 Application for license.
- 340.13 Licenses; restrictions.
- 340.133 Racial discrimination by clubs; issuance of licenses.
- 340.134 Liquor permits; military bases and installations.
- 340.135 Licenses; revocation; suspension.
- 340.14 Regulations.
- 340.141 Refilling of bottles.
- 340.142 Diluting or tampering with contents of original package.
- 340.143 Violation; gross misdemeanor.
- 340.145 Intoxicating liquor to be warehoused in Minnesota.
- 340.15 Regulation of advertising.
- 340.17 Sacramental wine.
- 340.18 Medicinal, mechanical, scientific purposes; license for sale.
- 340.19 Removal of officers; licenses revoked; bonds forfeited; violations.
- 340.20 Local option elections, petition.
- 340.21 Result of election.
- 340.323 Certification.
- 340.33 Contest of election; mandamus.
- 340.353 Municipal liquor stores; establishment; operation.
- 340.354 Declaration of policy.
- 340.355 Municipal liquor store; suspension of operation, procedure.
- 340.356 District court, hearing.
- 340.357 Judgment of suspension.
- 340.358 Municipal liquor stores, notice of intent to establish.
- 340.38 Violators; arrest, complaints, prosecutions.

- 340.39 Statutes, ordinances; when not operative.
- 340.401 Definitions.
- 340.402 Licenses, fees.
- 340.403 Bond, license.
- 340.404 Licenses; suspension, revocation.
- 340.405 Brewers, wholesalers; not to be retailers.
- 340.406 Exclusive contracts forbidden.
- 340.407 Violators; violations.
- 340.408 Joint purchases.
- 340.435 Farm winery licenses.
- 340.436 Taxation.

LIQUOR TAX

- 340.44 Definitions.
- 340.45 Filing proof of federal permit.
- 340.46 Labels on containers.
- 340.461 Intoxicating liquor cartons, labels.

EXCISE TAX

- 340.47 Excise tax.
- 340.485 Taxes on wines and spirituous liquors.
- 340.492 Manner and time of payment; penalties; deposit of tax proceeds.
- 340.493 Fermented malt beverages; shipment into state; licenses.
- 340.50 Exceptions.
- 340.51 Enforcement; employees; record of sale of stamps; inspection of books and premises.
- 340.515 Refunds.
- 340.53 Unlawful affixing of labels; forgery, counterfeiting.
- 340.54 Unstamped liquor.
- 340.55 Felonies.
- 340.56 Gross misdemeanors.
- 340.57 Certain cities may issue licenses.
- 340.58 Restrictions.
- 340.59 Law repealed by popular vote.
- 340.60 Liquor receipts.
- 340.601 Import; tax evasion, misdemeanor.
- 340.62 Certain liquor registered.
- 340.621 Intoxicating or nonintoxicating liquor; registration of brand by owner.

SEIZED LIQUOR, DISPOSAL

- 340.63 Seized liquors; destruction, disposal.
- 340.64 Report to department of human services.

SEARCH, SEIZURE

- 340.65 Search, seizure.
- 340.66 Possession prima facie evidence.

VIOLATIONS, PENALTIES

- 340.70 Certain acts a felony.
- 340.71 Selling or giving away any poisonous liquor, gross misdemeanor.
- 340.73 Persons to whom sales are illegal.
- 340.731 Persons under 19 years, forbidden acts or statements.
- 340.732 Violations, penalties.
- 340.74 Fraudulent shipments.
- 340.76 Pharmacists; illegal acts.
- 340.77 Physicians; illegal acts.
- 340.79 Giving to or procuring for certain persons; penalty.
- 340.80 Inducing certain persons to enter liquor establishments; penalty.
- 340.83 Sales to parolees from state institutions.

MINNESOTA STATUTES 1984

7047

INTOXICATING LIQUORS 340.01

| | | | |
|--------|--|---|---|
| 340.85 | Officers, duties. | 340.941 | Sale by employee. |
| 340.86 | Officers, neglect of duties. | 340.942 | Evidence of defendant regarding investigation of status of purchaser. |
| 340.87 | Definitions. | 340.95 | Injuries caused by intoxication, civil actions. |
| 340.88 | Intoxicated persons on trains or street cars. | 340.951 | Notice of injury. |
| 340.89 | Drinking on trains, street cars. | 340.961 | Drunkenness not a crime. |
| 340.90 | Drinking on trains, street cars; penalty for permitting. | LIQUORS, WINES; WHOLESALE PRICE SCHEDULE | |
| 340.91 | Conductors to arrest. | 340.983 | Filing of wholesale price schedule. |
| 340.92 | Intoxicated persons leaving trains. | 340.987 | Collection of tax: penalties. |
| 340.93 | Seizure of liquors. | 340.988 | Evasions; violations. |
| 340.94 | Prosecutions and evidence. | | |

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 percent alcohol by volume nor more than 3.2 percent 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 commissioner of public safety.

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.

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.

History: 1967 c 20 s 1; 1973 c 123 art 5 s 7; 1976 c 5 s 11

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.

History: 1933 c 116 s 1; 1945 c 589 s 1; 1949 c 700 s 1; 1967 c 20 s 2 (3200-5)

340.013 MS 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.

History: 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 fixed by and paid to the county or municipality wherein the premises are situated. "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. A club or charitable, religious, or non-profit organization may be issued a temporary "on-sale" license for the sale of non-intoxicating malt liquor on and off school grounds, and in and out of schoolhouses and school buildings. The temporary licenses shall be subject to such terms, including a license fee, as the issuing county or municipality shall prescribe.

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 fixed by and paid to the county or municipality wherein the premises are situated.

Subd. 4. **Common carrier licenses; fees.** The commissioner of public safety 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 commissioner of public safety 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 or resident aliens, who are of good moral character and repute, who have attained the age of 19 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 percent 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 percent 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.

History: 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; 1971 c 230 s 1; 1973 c 447 s 1,2; 1973 c 725 s 60; 1974 c 150 s 1; 1976 c 5 s 11; 1976 c 66 s 1; 1984 c 609 s 20 (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 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 narcotic drugs, depressant or stimulant drugs, or 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 narcotic drugs, depressant or stimulant drugs, or 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 \$3,000 shall be transferred into the general fund.

History: 1939 c 111 s 1; 1955 c 11 s 1; 1971 c 52 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 a 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; (b) furnish inside signs, miscellaneous advertising matter, and other items not to exceed, in the aggregate, a cost of \$100 in any calendar year to any one retailer; (c) furnish or maintain for retailers equipment 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 \$100 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.

History: 1967 c 20 s 5; 1982 c 612 s 1

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.

History: 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.

History: 1967 c 20 s 7

340.034 SALES; CLOSING HOURS.

Subdivision 1. No sale of nonintoxicating malt liquor shall be made between the hours of one a.m. and eight a.m. on any weekday 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 noon.

MINNESOTA STATUTES 1984

340.034 INTOXICATING LIQUORS

7052

Subd. 2. It shall be beyond the power of any political subdivision of this state to authorize or permit the sale of nonintoxicating 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 nonintoxicating liquors, provided that such limited hours for sale shall apply to both nonintoxicating 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.

History: 1967 c 20 s 8; 1971 c 56 s 1; 1983 c 259 s 1

340.035 PERSONS UNDER 19 YEARS; PENALTY.

Subdivision 1. It is unlawful for any:

(1) licensee or his employee to permit any person under the age of 19 years to consume nonintoxicating malt liquor on the licensed premises;

(2) person other than the parent or legal guardian to procure nonintoxicating malt liquor for any person under the age of 19 years;

(3) person to induce a person under the age of 19 years to purchase or procure nonintoxicating malt liquor.

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

History: 1967 c 20 s 9; 1976 c 66 s 2; 1982 c 528 s 1; 1984 c 622 s 21

NOTE: For employment of minors, see section 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.

History: 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 1/2 of one percent of alcohol by volume.

History: 1967 c 20 s 12

PROOF OF AGE

340.039 PROOF OF AGE.

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. In the case of a foreign national, a valid passport may be used as an alternative to the foregoing methods of identification.

History: 1973 c 725 s 90; 1977 c 347 s 51; 1977 c 361 s 4; 1981 c 21, s 1

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."

History: 1967 c 19 s 18; 1983 c 216 art 1 s 57

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 or by the drink for consumption on the premises only pursuant to such regulations as the commissioner may prescribe.

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 from stock maintained in a warehouse within the state 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, public corporation organized and existing under sections 473.601 to 473.679, as to any major airport, as defined by section 473.121, subdivision 33, operated by any such public corporation where the lands or any part thereof constituting such major airport have been detached from cities under and pursuant to sections 473.625 to 473.631, 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, 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, and may offer recorded or live entertainment, and make available coin-operated amusement devices. 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 or owning or operating the exclusive liquor store, as the case may be.

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. 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 statutory cities 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 statutory cities of 10,000 population or less, in such manner as the municipality shall determine; in an unincorporated or unorganized area of a county other than St. Louis, Cook, and Lake counties 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; and in an unincorporated or unorganized area of St. Louis, Cook, and Lake counties the establishment must have facilities for seating not less than 50 guests at one time.

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.

History: *Ex 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; 1973 c 123 art 5 s 7; 1973 c 664 s 1; 1974 c 196 s 1; 1974 c 268 s 5; 1978 c 687 s 2; 1978 c 701 s 1; 1980 c 509 s 61; 1984 c 626 s 2 (3200-21)*

340.08 Subdivision 1. MS 1974 [Repealed, 1976 c 5 s 12]

Subd. 2. MS 1974 [Repealed, 1976 c 5 s 12]

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

Subd. 3. MS 1974 [Repealed, 1976 c 5 s 12]

340.081 TRANSFER OF POWERS AND DUTIES.

The office of liquor control commissioner as heretofore constituted is hereby abolished. All powers and duties now vested in the liquor control commissioner are transferred to the commissioner of public safety except for the duties specified in Laws 1976, Chapter 5, Sections 4 to 6 which are transferred to the commissioner of revenue.

The commissioners of public safety and of revenue are deemed to be the successors of the liquor control commissioner and the matters within the jurisdiction of the former commissioner and shall not be deemed a new authority.

Any proceeding, court action, prosecution, or other business undertaken or commenced prior to February 7, 1976 are hereby assigned to the commissioners of public safety and of revenue as appropriate and may be completed by them.

History: 1976 c 5 s 7

340.09 [Repealed, 1976 c 5 s 12]

340.10 PUBLISHING REGULATIONS.

All regulations made by the commissioner of public safety shall be printed in book form. Such regulations shall otherwise comply with the administrative procedure act as contained in chapter 14.

History: *Ex 1934 c 46 s 4; 1967 c 19 s 4; 1976 c 5 s 11; 1982 c 424 s 130*

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, or by an institution of higher education for scientific, experimental or educational purposes only.

Subd. 2. Wholesalers' and manufacturers' licenses. Manufacturers' and wholesalers' licenses shall be issued by the commissioner of public safety.

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.

Subd. 3. Common carrier licenses. The commissioner of public safety 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 commissioner of public safety a fee of \$100 per annum. The expiration date of each license issued shall be determined by the commissioner of public safety. 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 commissioner of public safety 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. 3a. **Lake Superior tour boats.** Notwithstanding any law to the contrary, the commissioner of public safety may license any person regularly engaged, on an annual or seasonal basis, in the business of offering tours by boat upon Lake Superior and adjacent bays to sell intoxicating liquor at on-sale each day of the week for consumption upon the boats. The license shall authorize the on-sale of intoxicating liquor both while the boats are underway or in use or attached to a dock or other mooring. No license shall be issued unless each boat used in the tour business regularly sells meals in the place where intoxicating liquor is sold.

All sales of intoxicating liquor made upon the boats while they are attached to a dock or other mooring shall be subject to any restrictions on liquor sales prescribed by the governing body of the city where the boats are attached, or of the county when they are attached outside a city, and any governing body may prohibit liquor sales within its jurisdiction, but no governing body may require any additional license, or require any fee or occupation tax, for the sales; provided, that any city in which a boat licensed pursuant to this subdivision is moored continually for a period of at least three consecutive months may require a boat to obtain a license to sell intoxicating liquor at on-sale during the time it is so continually moored, and may charge a fee for such a license not to exceed one-half the fee charged for a comparable all-year on-sale license. Any license issued by a city pursuant to this subdivision shall be in addition to the number authorized by subdivision 5a.

A license shall be displayed at all times in the area of each boat where intoxicating liquor is sold. In the event that a person applying for a license operates more than one boat, a duplicate copy of the license shall be obtained from the commissioner and displayed on each boat. The cost for each license and each duplicate copy of a license shall be \$1,000 annually payable to the commissioner upon application for a license or duplicate. No more than three licenses or duplicate copies shall be issued for boats providing tours originating in any one licensing jurisdiction.

The person applying for a license or duplicate copy hereunder shall provide a bond in the same manner and amount and meeting the same requirements as that required of common carriers under section 340.12.

Subd. 4. **Off-sale licenses.** "Off-sale" licenses issued by any municipality shall not be effective until approved, together with the bond, by the commissioner of public safety, 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 commissioner of public safety 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. 5a. **Number of on-sale licenses.** Except as provided in subdivision 18, or as otherwise provided by law, no on-sale licenses shall be issued in any city in excess of the following limitations, which shall apply equally to all cities regardless of whether a municipal liquor store is maintained:

(a) In cities of the first class, one license may be issued for every 1,500 population, up to a maximum of 200 licenses.

(b) In cities of the second class, not more than 18 licenses may be issued, plus one additional license for every 2,500 population in excess of 45,000.

(c) In cities of the third class, not more than 12 licenses may be issued.

(d) In cities of the fourth class, including those cities whose acts of incorporation are repealed by Laws 1973, Chapter 123, Article V, Section 5, not more than seven licenses may be issued.

(e) In statutory cities of 5,000 to 10,000 population, not more than six licenses may be issued.

(f) In statutory cities of 2,500 to 5,000 population, not more than five licenses may be issued.

(g) In statutory cities of 500 to 2,500 population, not more than four licenses may be issued.

(h) In statutory cities of under 500 population, not more than three licenses may be issued.

For purposes of this subdivision the term "statutory city" does not include those cities whose acts of incorporation are repealed by Laws 1973, Chapter 123, Article V, Section 5.

For purposes of this subdivision, population shall be determined by the most recent federal decennial census or by any special census taken pursuant to law.

This subdivision shall not be construed to increase or decrease the number of on-sale licenses which may be issued in any municipality.

Subd. 6. MS 1974 [Repealed, 1975 c 345 s 7]

Subd. 7. MS 1974 [Repealed, 1975 c 345 s 7]

Subd. 7a. **Annexation or consolidation.** Except for the limitations on ownership of licenses imposed by section 340.13, subdivision 3, 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, and may thereafter continue to remain in effect and be renewed. Any such license which is located in territory which is annexed to or consolidated with a municipality which operates a municipal liquor store may thereafter continue in effect and be renewed, and the provisions, including restrictions and limitations, set forth in subdivision 5a and section 340.353, subdivision 5, shall not apply to the issuance or renewal of such licenses.

Subd. 8. **Additional on-sale licenses; St. Louis county.** In St. Louis county, if the commissioner of public safety also approves, the governing body in cities of the third class may grant 15 "on-sale" licenses and in cities of the fourth class, including those cities whose acts of incorporation are repealed by Laws 1973, Chapter 123, Article 5, Section 5, may issue nine "on-sale" licenses and in statutory cities having a population of more than 2,500, and less than 5,000, six "on-sale" licenses. For purposes of this subdivision the term "statutory city" does not include those cities and boroughs whose acts of incorporation are repealed by Laws 1973, Chapter 123, Article 5, Section 5: This section shall not be construed to increase or decrease the number of "on-sale" licenses that may be issued in any municipality.

Subd. 9. MS 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 organized and existing under sections 473.601 to 473.679, 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 under and pursuant to sections 473.625 to 473.631.

Subd. 10. **On-sale licenses; 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 or to a club, with the approval of the commissioner of public safety. No license may be issued or renewed under this clause until the county board has secured a written statement of the sheriff concerning the applicant. The statement must include a recital that to the best of his knowledge the applicant has not, within five years before the date of application, violated any law relating to the sale of non-intoxicating malt liquor or intoxicating liquors and that in his judgment the applicant will comply with the laws and regulations relating to the conduct of the business if the license is issued or renewed. Before issuing or renewing a 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, the type of premises, and the propriety of the location of the business.

All licenses issued pursuant to this clause are subject to the appropriate provisions of the intoxicating liquor act except as otherwise provided 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 must be in an amount competitive with similar licensing fees in comparable areas where intoxicating liquor is sold at on-sale. If the licensed premises to which a license issued pursuant to this section or any other law governing the issuance of a license by a county is located in a town, an additional license fee may be set by the town board in an amount not to exceed 20 percent of the county license fee. No premises located in a town may be licensed by the county board unless a resolution of the town board of supervisors indicating its support for the granting of the license is filed with the application for the license. If the town board of supervisors refuses or fails to adopt a resolution indicating its opposition within 30 days after receiving notice of the application, it shall be presumed that it supports the application, and the premises may be licensed.

No license may be issued by a county board pursuant to this section to a person who directly or indirectly has been issued an intoxicating liquor license by the county board or by the governing body of any city located within the county. Nothing in this paragraph shall be construed to prohibit the re-issuance of an intoxicating liquor license already issued pursuant to law as of June 5, 1975.

Subd. 10a. **Off-sale licenses; certain counties.** (1) Off-sale licenses may be issued for the sale of intoxicating liquors by certain counties herein provided for.

(2) A county board of any county containing unorganized area may issue an off-sale liquor license within any unorganized area of the county to an exclusive liquor store with the approval of the commissioner of public safety.

All licenses issued pursuant to this clause shall be governed by the appropriate provisions of the intoxicating liquor act except as otherwise provided herein. The license fee for an off-sale license issued pursuant to this section shall be fixed by the county board in an amount not to exceed \$500.

Subd. 10b. **Off-sale licenses; towns.** The town board of any town exercising powers pursuant to section 368.01, subdivision 1, may issue off-sale licenses for the sale of intoxicating liquor to exclusive liquor stores with the approval of the commissioner of public safety. Licenses issued under this subdivision shall be governed by the appropriate provisions of the intoxicating liquor act except as provided otherwise by this subdivision. The fee for a license shall be fixed by the board in an amount not to exceed \$500.

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. In addition to the number of licenses authorized by this section, an "on-sale" license may be issued, if approved by the commissioner of public safety, to a bona fide club or congressionally chartered veterans' organization which has been in existence for at least three years. The club or veterans' organization must be incorporated in order to be eligible to apply for a license, and the license issued must be for the sale of intoxicating liquors to members and bona fide guests only. The license fee for an "on-sale" license issued by a municipality pursuant to this subdivision shall be in an amount determined by the governing body thereof subject to the following limitations: up to \$300 for a veterans organization or fraternal club with a membership of 200 or less; up to \$500 for a veterans organization or fraternal club with a membership of between 201 and 500; up to \$650 for a veterans organization or fraternal club with a membership of between 501 and 1,000; up to \$800 for a veterans organization or fraternal club with a membership of between 1,001 and 2,000; up to \$1,000 for a veterans organization or fraternal club with a membership between 2,000 and 4,000; up to \$2,000 for a veterans organization or fraternal club with a membership of between 4,001 and 6,000; and up to \$3,000 for a veterans organization or fraternal club with a membership of more than 6,000. For purposes of the maximum license fee which may be imposed by a municipality pursuant to this subdivision, "fraternal club" means a club which serves only members and their guests and which uses any profits derived from these sales principally for sponsoring activities beneficial to the community and not for the benefit of any individual. Except in cities of the first, second, and third class, a license may be issued jointly to congressionally chartered veterans' organizations that 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 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. Notwithstanding any other law, or municipal charter provision or ordinance to the contrary, retail "on-sale" licenses permitting the sale of nonintoxicating malt liquors issued to establishments located on lands owned by the commission created in section 473.553 permit the licensees to sell nonintoxicating malt liquors, in addition to other times permitted by law, between the hours of 10:00 a.m. and 12:00 noon on any Sunday on which a sports or other event is scheduled to begin at that location at or before 1:00 p.m. on that day.

Subd. 11b. **On-sale licenses to certain nonprofit corporations.** "On-sale" licenses for the sale of intoxicating liquor may, in the discretion of the municipality, be issued in a city of the first class to a nonprofit corporation which was organized prior to January 1, 1972 to promote, stimulate, and support community education, appreciation and development of the theater and cultural arts through dramatic performances and other means and which has operated a repertory theater in the city since at least January 1, 1972. The licenses may be issued notwithstanding any limitations imposed by law, charter or ordinance relating to liquor patrol limits, zoning, or school or church distance limitations. The licenses shall be in excess of any limitations imposed by subdivision 5a. The licenses may authorize sales on all days of the week. All other laws, charter provisions, or ordinances relating to the licensing and regulation of on-sale liquor establishments, including the granting,

renewal, suspension or revocation of licenses shall apply. A license issued pursuant to this subdivision shall authorize the sale of intoxicating liquor only to holders of tickets to dramatic performances presented by the nonprofit corporation and members of the nonprofit corporation and their guests.

Subd. 11c. Sale of liquor at sports or convention facilities. The governing body of any municipality as defined in section 340.07, subdivision 11, may by ordinance authorize any holder of an on-sale intoxicating liquor license issued by the municipality or by an adjacent municipality to dispense intoxicating liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports or convention facility owned by the municipality or instrumentality thereof having independent policymaking and appropriating authority, and located within the municipality or owned by the metropolitan sports facilities commission and located within the municipality. The licensee must be engaged to dispense intoxicating liquor at such an event held by a person or organization permitted to use the premises, and may dispense intoxicating liquor only to persons attending the event. The licensee shall not dispense intoxicating liquor to any person attending or participating in any amateur athletic event held on the premises. The dispensing of intoxicating liquor shall be subject to all laws and ordinances governing the dispensing of intoxicating liquor as are not inconsistent herewith. All dispensing of intoxicating liquor shall be in accordance with terms and conditions prescribed by the municipality, and such terms and conditions may limit the dispensing of intoxicating liquor to designated areas of the facility. The municipality may fix and assess a fee to be paid to the municipality by an on-sale licensee for each occasion where the licensee is engaged to dispense intoxicating liquor. The authority granted by this subdivision shall not be construed as counting as an additional on-sale intoxicating liquor license for purposes of determining the number of liquor licenses permitted to be issued under the provisions of section 340.11.

Subd. 12. On-sale-off-sale and combination on-sale and off-sale licenses. A city of the fourth class, or a statutory city of 10,000 inhabitants or less, 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, or a statutory city, is reported by a federal census to have increased in population to more than 10,000 inhabitants, such city, 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, the number of "off-sale" licenses to be issued shall be determined by the governing body thereof. In such cities, 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 \$7,500, 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 \$7,500, 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 \$750.

(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 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 with a population between 5,000 and 10,000 the maximum license fee shall be \$150; in all cities 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. MS 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. 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. It is also lawful for an off-sale licensee or municipal liquor store to provide samples of wine, liqueurs, and cordials which the licensee or municipal liquor store currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the wine, liqueur, and cordial samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 50 milliliters of wine per variety per customer and 25 milliliters of liqueur or cordial per variety per customer.

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.

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.

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 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.

Subd. 19. Reissuance of licenses, certain cities. The governing body of any city in which real property or the buildings thereon have been taken for a public purpose by negotiation or eminent domain proceedings, and such property was actually and lawfully used for the sale of intoxicating liquors immediately prior to such taking, and in which city there is any territory in which sales of intoxicating liquors have been prohibited by city charter, or law of this state, is hereby authorized and empowered, by a majority vote of the governing body therefor, in addition to the number of licenses issued in such prohibited territory, to reissue such license at any location, including hotels, in said city, which location shall be subject to all limitations, now prescribed by any law of this state. Provided further that any change of location due to a taking after July 1, 1972, must be accomplished by July 1, 1976, but all licenses issued, renewed, reissued, transferred, relocated pursuant to this section or any other similar provision of state law, may continue to be renewed, reissued, transferred or relocated pursuant to the terms thereof.

Subd. 20. On-sale wine licenses. (a) "On-sale wine licenses" shall mean licenses authorizing the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.

(b) For purposes of this subdivision "restaurant" shall mean an establishment, under the control of a single proprietor or manager, having appropriate facilities for serving 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.

(c) Any municipality which maintains a municipal liquor store or any municipality or county authorized to issue "on-sale" licenses for the sale of intoxicating liquor may issue on-sale wine licenses to any restaurant having facilities for seating not fewer than 25 guests at one time. The licenses shall be in addition to the number of on-sale licenses for the sale of intoxicating liquor authorized by the intoxicating liquors act. The fee for on-sale wine licenses shall be set by the issuing authority, but shall not exceed one-half of the license fee charged by the issuing authority for an on-sale license, or \$2,000, whichever is less. Licenses issued pursuant to this subdivision shall not be effective until approved by the commissioner. The licenses shall authorize the sale of wine as herein provided on all days of the week unless the issuing authority restricts the license's authorization to the sale of wine on all days other than Sunday.

Subd. 21. Liability insurance. Every person licensed to sell at retail intoxicating liquor or nonintoxicating malt liquor at on-sale or off-sale shall, after August 1, 1983, demonstrate proof of financial responsibility with regard to liability imposed by section 340.95, to the authority issuing the license as a condition of the issuance or renewal of his license, provided this subdivision does not apply to licensees who by affidavit establish that they are on-sale nonintoxicating malt liquor licensees with sales of less than \$10,000 of nonintoxicating malt liquor for the preceding year, or off-sale nonintoxicating malt liquor licensees with sales of less than \$20,000 of nonintoxicating malt liquor for the preceding year, or holders of on-sale wine licenses under subdivision 20, with sales of less than \$10,000 of wine for the preceding year. The issuing authority must submit to the commissioner the proof of financial responsibility or exemption affidavit submitted by the license applicant. Proof of financial responsibility may be given by filing:

(a) A certificate that there is in effect for the period covered by the license an insurance policy or pool providing the following minimum coverages;

(1) \$50,000 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$100,000 because of bodily

injury to two or more persons in any one occurrence, and in the amount of \$10,000 because of injury to or destruction of property of others in any one occurrence.

(2) \$50,000 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$100,000 for loss of means of support of two or more persons in any one occurrence; or

(b) A bond of a surety company with minimum coverages as provided in clause (a), or

(c) A certificate of the state treasurer that the licensee has deposited with him \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

This subdivision does not prohibit a local governing unit from requiring higher insurance or bond coverages, or a larger deposit of cash or securities than is required hereunder, as a condition of issuance or renewal of a retail intoxicating liquor or nonintoxicating malt liquor on-sale or off-sale license.

The commissioner of commerce shall advise licensees and municipalities subject to the financial responsibility requirements of this subdivision of those persons offering insurance coverage. The commissioner of commerce shall establish a program to assist licensees in obtaining insurance coverage. The program shall include a committee appointed by the commissioner of commerce of a representative group of insurance carriers and producers. The commissioner of commerce shall serve as an ex officio member of the committee. The committee shall review and act upon all properly executed applications requesting liquor liability market assistance. The market assistance program shall be established by the commissioner of commerce by August 1, 1983, and shall continue to function so long as its services are deemed by the commissioner of commerce to be necessary to relieve perceived availability problems in the liquor liability insurance market. If the committee finds that it cannot assist in securing insurance coverage it shall notify the applicant in writing with a full explanation and recommendation for enhancing its ability to secure insurance. The commissioner of commerce shall, if necessary, establish an assigned risk plan pursuant to subdivision 23.

Subd. 22. Licenses at racetracks. An on-sale intoxicating liquor license issued by a municipality to a location at a racetrack licensed under chapter 240 may not be transferred and is in addition to the number of on-sale intoxicating liquor licenses authorized by subdivision 5a.

Subd. 23. Assigned risk plan. (1) The purpose of the assigned risk plan is to provide coverage required by subdivision 21 to persons rejected pursuant to this subdivision.

(2) An insurer that refuses to write the coverage required by subdivision 21 shall furnish the applicant with a written notice of refusal. The rejected applicant shall file a copy of the notice of refusal with the commissioner of public safety and with the assigned risk plan at the time of application for coverage under the plan.

(3) The commissioner of commerce may enter into service contracts as necessary or beneficial to accomplish the purposes of the assigned risk plan including servicing of policies or contracts of coverage, data management, and assessment collections. Services related to the administration of policies or contracts of coverages shall be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (13) or a qualified vendor of risk management services. A qualified insurer or vendor of risk management services shall possess sufficient financial, professional, administrative, and personnel resources to provide the services required for operation of the plan. The cost of all services contracted for shall be an obligation of the assigned risk plan.

(4) The commissioner of commerce may assess all insurers licensed pursuant to section 60A.06, subdivision 1, clause (13) an amount sufficient to fully fund the obligations of the assigned risk plan, if the commissioner of commerce determines that the assets of the assigned risk plan are insufficient to meet its obligations. The assessment of each insurer shall be in a proportion equal to the proportion which the amount of insurance written as reported on page 14 of the annual statement under line 5, commercial multi-peril, and line 17, other liability, during the preceding calendar year by that insurer bears to the total written by all such carriers for such lines.

(5) Policies and contracts of coverage issued pursuant to this subdivision shall contain the usual and customary provisions of liability insurance policies, and shall contain the minimum coverage required by subdivision 21 or the local governing unit.

(6) Assigned risk policies and contracts of coverage shall be subject to premium tax pursuant to section 60A.15.

(7) Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan approved by the commissioner of commerce. Assigned risk premiums shall not be lower than rates generally charged by insurers for the business. The commissioner of commerce shall fix the compensation received by the agent of record.

(8) The commissioner of commerce shall adopt rules, including emergency rules, as may be necessary to implement this subdivision. The rules may include:

(a) appeal procedures from actions of the assigned risk plan;

(b) formation of an advisory committee composed of insurers, vendors of risk management services and licensees, to advise the commissioner of commerce regarding operation of the plan; and

(c) applicable rating plans and rating standards.

History: *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 2-4; 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; 1971 c 263 s 1; 1973 c 123 art 4 s 1,2; 1973 c 123 art 5 s 7; 1973 c 179 s 1; 1973 c 664 s 4; 1974 c 268 s 1,2; 1974 c 283 s 1; 1975 c 334 s 1; 1975 c 345 s 1-4; 1976 c 5 s 11; 1977 c 56 s 1; 1977 c 89 s 14; 1977 c 217 s 1; 1977 c 239 s 1; 1978 c 607 s 1; 1978 c 742 s 1; 1979 c 305 s 3; 1979 c 325 s 1; 1980 c 509 s 62; 1980 c 581 s 1; 1981 c 118 s 1; 1981 c 123 s 1; 1981 c 357 s 83; 1982 c 424 s 130; 1982 c 528 s 2; 1982 c 597 s 1; 1982 c 630 s 1; 1982 c 631 s 1; 1982 c 638 s 1; 1983 c 194 s 1; 1983 c 214 s 33; 1983 c 259 s 2,3; 1983 c 289 s 114 subd 1; 1983 c 320 s 1,2; 1984 c 640 s 32; 1984 c 654 art 3 s 85; 1984 c 655 art 1 s 92 (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.

History: 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 commissioner of public safety permitting him so to do.

Subd. 2. **License, application, renewal.** Such licenses shall be issued by the commissioner of public safety for the term of one year, and must be renewed annually. Application for such a license shall be made to the commissioner of public safety. 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 commissioner of public safety 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 \$300 which shall accompany the application for license.

Subd. 3. **Licenses revoked for cause.** Licenses may be revoked by the commissioner of public safety 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 commissioner of public safety 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.

History: 1943 c 307 s 1-6; 1955 c 820 s 4; 1969 c 399 s 1; 1969 c 1148 s 55; 1976 c 5 s 11; 1981 c 357 s 84

340.114 UNLAWFUL DISCRIMINATION PROHIBITED.

Subdivision 1. All licensed importers shall offer for sale on an equal basis to all licensed wholesalers and manufacturers all intoxicating liquor brought into the state of Minnesota.

Subd. 2. Without limiting subdivision 1, the following shall be deemed failures to offer intoxicating liquor for sale on an equal basis and are unlawful:

(a) A refusal to sell any intoxicating liquor to a wholesaler or manufacturer, which is offered for sale to any other wholesaler or manufacturer, except when a wholesaler or manufacturer is in arrears on payments for past purchases from the importer who refuses to sell.

(b) A sale of any intoxicating liquor to any wholesaler or manufacturer at a price different from that offered to any other wholesaler or manufacturer, exclusive of shipping costs, except that quantity discounts based upon actual cost savings may be uniformly offered to all wholesalers and manufacturers.

(c) A sale of any intoxicating liquor to any wholesaler or manufacturer on terms of purchase different from those offered any other wholesaler or manufacturer, except that when the importer reasonably believes that a wholesaler or manufacturer will be unable to comply with the existing terms of credit, then other terms may be employed, including denial of credit.

(d) Any discrimination among wholesalers and manufacturers in satisfying their respective demands for any intoxicating liquor.

(e) A sale conditioned upon an agreement which restricts the wholesaler or manufacturer with respect to customers, area for distribution, or resale price, or which otherwise restrains the wholesaler or manufacturer from competing in trade and commerce.

(f) For purposes of this subdivision and subdivision 1 only, the term "intoxicating liquor" shall not include "pop wines" as the same are defined by regulation of the commissioner.

Subd. 3. No licensed importer or manufacturer shall offer or sell to any licensed wholesaler any intoxicating liquor at a bottle or case price which is higher than the lowest price at which such item of liquor is contemporaneously being sold by such importer or manufacturer to any wholesaler anywhere in any other state of the United States or in the District of Columbia or to any state or state agency which owns and operates retail liquor stores.

In determining the lowest price for which any item of liquor is being sold in any other state or in the District of Columbia, or to any state or state agency which owns and operates retail liquor stores, appropriate reductions shall be made to reflect all discounts, rebates, free goods, allowances and other inducements of any kind whatsoever offered or given to any such wholesaler, state, or state agency purchasing such item in such other state or in the District of Columbia; provided that nothing contained herein shall prevent differentials in price which make only due allowance for differences in state taxes and fees, and in the actual cost of delivery. As used in this subdivision, the term "state taxes or fees" shall mean the excise taxes imposed or the fees required by any state or the District of Columbia based upon a gallon of liquor.

Subd. 4. Nothing in this section shall apply to any wines or malt beverages regardless of alcoholic content.

Subd. 5. This section does not apply to intoxicating liquor which is:

- (1) further distilled, refined, rectified, or blended within the state; and
- (2) bottled within the state and labeled with the importer's own labels after importation into the state.

History: 1973 c 664 s 2; 1984 c 626 s 3

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.

History: 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; PENALTY.

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 19 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 may be issued by the commissioner of public safety after approval by the governing body of the county or city, for a period of one year to expire on July 1, next following issuance of such license, upon the payment of \$150 and must be renewed annually on July 1. Application for such permit shall be made to the commissioner of public safety. There is hereby conferred upon the governing body of each county and city in the state the authority to impose, in addition to the fee provided by this subdivision, a local license fee not exceeding \$300 per year, which shall be payable to the county and city 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 commissioner of public safety and his designated agents and other duly authorized peace officers. Refusal to permit the commissioner of public safety 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.

Subd. 10. Notwithstanding any other provision of law, the governing body of any city may issue a one-day intoxicating liquor consumption and display permit to any non-profit organization in conjunction with a social activity occurring within the city and sponsored by the organization. Not more than ten such licenses shall be issued in any city in any year. The fee for the license shall not exceed \$25. The permit shall allow the consumption or display of intoxicating liquor and the serving of liquids for the purpose of mixing with intoxicating liquor, but shall not allow the sale of intoxicating liquor. The permit shall be valid only for the day indicated on it. No permit issued pursuant to this subdivision shall be valid unless first approved by the commissioner of public safety.

History: 1967 c 19 s 12; 1973 c 123 art 5 s 7; 1973 c 725 s 61; 1976 c 5 s 11; 1976 c 66 s 3; 1976 c 137 s 1; 1981 c 357 s 85; 1982 c 597 s 2

340.12 APPLICATION FOR LICENSE.

Every person desiring a license from the commissioner of public safety, shall file with him a verified written application in the form prescribed by the commissioner. All applicants for manufacturer's and wholesaler's licenses to sell intoxicating liquor shall file with the commissioner of public safety a bond with corporate surety to be approved by the commissioner of public safety before granting the license or 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 commissioner of public safety a bond with corporate surety to be approved by the commissioner of public safety before granting the license or 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 commissioner of public safety a bond with corporate surety to be approved by the commissioner of public safety before granting the license or 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 organized and existing under sections 473.601 to 473.679, with the executive director thereof, a verified written application in the form prescribed by the commissioner with the additional information the local governing body requires. An applicant for an "off sale" license shall file with the clerk of the proper municipality a bond with corporate surety or 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 determines. The bond shall be approved by the local governing body and the commissioner of public safety.

An applicant for an "on sale" license shall file with the clerk of the proper municipality, or in the case of a public corporation organized and existing under sections 473.601 to 473.679, with the executive director thereof, a bond with corporate surety or 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 determines. The bond shall be approved by the local governing body.

A liability insurance policy required by section 340.11, subdivision 21 shall provide that it may not be canceled for any cause either by the insured or the insurance company without first giving ten days' notice to the municipality in writing of intention to cancel it, addressed to the city clerk of the municipality, or in the case of a public corporation organized and existing under sections 473.601 to 473.679, to the executive director thereof. The operation of an "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.

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

As to manufacturers, wholesalers and common carriers:

- (a) That the licensee will obey the law relating to the 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, the 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 the 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, the bond or policy shall be forfeited to the municipality in which the license was issued.

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

History: *Ex1934 c 46 s 6; 1943 c 501 s 2; 1943 c 568 s 1; 1945 c 313 s 1; 1959 c 540 s 5; 1976 c 5 s 11; 1980 c 509 s 63; 1982 c 528 s 3 (3200-26)*

340.13 LICENSES; RESTRICTIONS.

Subdivision 1. Manufacturers' or wholesalers' 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 nor to prohibit a licensed manufacturer of wine containing not more than 25 percent of alcohol by volume nor less than 51 percent wine manufactured from Minnesota grown agricultural products from selling at off-sale wines manufactured or processed by that manufacturer at not more than one location in conjunction with a winery without procuring a retail off-sale license. 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 off-sale 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 off-sale 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 ten percent or less interest in any other corporation holding a license. A person who receives moneys 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, other than a license issued pursuant to section 340.353, subdivision 5, shall be directly or indirectly issued in any city 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 this chapter.

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.

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 a person other than a citizen of the United States or resident alien, 19 years of age or over, who shall be of good moral character and repute; nor to any person who within five years prior to the application for the license has been convicted of any willful 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 is revoked for a willful violation of any of those 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.

Subd. 14. Investigation of on-sale license applicants. The city or county having jurisdiction over on-sale licenses to sell intoxicating liquor shall, upon initial application for an on-sale license or upon application for a transfer of an existing license, conduct a preliminary background and financial investigation of the applicant. The application shall be in the form prescribed by the bureau of criminal apprehension and with such additional information as the governing body of the city or county having jurisdiction over the license may require. If the governing body of the city or county having jurisdiction, or the bureau on its own initiative shall determine that a comprehensive background and investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau for the investigation. In addition, an investigation may be required prior to renewal of an existing on-sale license when the governing body of the city or county deems it to be

in the public interest to do so. No license shall be issued, transferred or renewed if the results of the investigation show, to the satisfaction of the governing body, that issuance, transfer or renewal would not be in the public interest. An investigation fee not to exceed \$500 shall be charged an applicant by the city or county if the investigation is conducted within the state, or the actual cost not to exceed \$10,000 if the investigation is required outside the state, shall be charged an applicant by the city or county.

History: *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; 1973 c 123 art 5 s 7; 1973 c 725 s 62; 1974 c 438 s 1; 1975 c 345 s 5; 1976 c 66 s 4; 1976 c 105 s 1; 1979 c 249 s 1,2; 1979 c 305 s 4,5; 1984 c 609 s 21 (3200-27)*

340.133 RACIAL DISCRIMINATION BY CLUBS; ISSUANCE OF LICENSES.

Notwithstanding any provision of law to the contrary, no license for the on sale or off sale of intoxicating liquor or for the conduct of dances or other forms of entertainment shall be issued or renewed by a municipality to any club which discriminates against members or applicants for membership or guests of members upon the basis of race. For purposes of this section the terms used herein shall have the meanings ascribed to them by section 340.07.

History: *1973 c 463 s 1*

340.134 LIQUOR PERMITS; MILITARY BASES AND INSTALLATIONS.

Notwithstanding any provision of this chapter, or any other general or local law or municipal ordinance, the commissioner of public safety may issue permits for the sale of intoxicating liquors at on-sale within the boundaries of military bases or installations under the jurisdiction of the adjutant general and provided the adjutant general authorizes such licenses. All provisions of this chapter shall apply to the sale of intoxicating liquor pursuant to such permits, provided that no municipal approval or licensing of premises shall be required.

History: *1976 c 5 s 11; 1976 c 160 s 1*

340.135 LICENSES; REVOCATION; SUSPENSION.

The authority issuing or approving any license or permit pursuant to the intoxicating liquor act may either suspend for not to exceed 60 days or revoke such license or permit upon a finding that the licensee or permit holder has failed to comply with any applicable statute, regulation or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee or permit holder has been afforded an opportunity for a hearing pursuant to sections 14.57 to 14.70.

History: *1967 c 19 s 9; 1975 c 231 s 1; 1982 c 424 s 130*

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. No "on-sale" shall be made between the hours of one a.m. and eight o'clock a.m. on any weekday. No "on-sale" shall be made after eight o'clock p.m. on December 24. 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 located within a radius of 15 miles of a city of the first class within the same county, "off-sale" may be made only until eight o'clock p.m. of any day except Friday and Saturday, on which days

"off-sale" may be made until ten o'clock p.m. No "off-sale" shall be made on New Years Day, January 1; 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 nonintoxicating malt liquors.

Subd. 1a. Persons denied access. No intoxicating liquor shall be sold, furnished, or delivered for any purpose to any minor or to any person obviously intoxicated or to any of the persons to whom sale is prohibited by statute.

Subd. 2. Restrictions. 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, except that gambling devices may be kept or operated and raffles conducted on licensed premises and adjoining rooms when such activities are licensed by the charitable gambling control board under sections 349.11 to 349.213. No person under 18 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 18 years of age may be employed as musicians or to perform the duties of a busboy or dishwashing 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." Persons under 18 years of age may be employed as waiters or waitresses in places defined as a restaurant, hotel or motel to serve food in rooms in which only wine is sold on-sale, provided they shall not be permitted to serve or sell wine.

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 at any place in a city of the first class within one-half mile of such fairgrounds except as hereinafter otherwise provided by charter;
- (3) Upon the campus of the institute of agriculture of the University of Minnesota or at any place in a city of the first class within one-half mile of such campus except as hereinafter otherwise provided by charter. The city may issue one on-sale wine license to a vendor in the territory described in this clause that is not also included in the territory described in clause (2). The license is in addition to any others permitted in the city by other law or charter;
- (4) Within 1,000 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 human services 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 intoxicat-

ing 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-tenth mile of the main building of the University of Minnesota unless the licensed establishment is on property owned or operated by a nonprofit corporation organized prior to January 1, 1940 for and by former students of the University of Minnesota; a license may be issued under this clause notwithstanding any local law to the contrary;

(7) Within 1,500 feet of any state university, 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; within 1,500 feet at St. Cloud State University except for one wine and two off-sale licenses only, and within 1,200 feet at Winona State University, and at Southwest State University. In determining the distance, the measurement shall be along the most direct line from the nearest corner of the administration building of the university to the main entrance of the licensed premises; as to Mankato State University in the city of Mankato when the place of sale is within 1,500 feet as measured from the front door of the student union 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. The governing body of any municipality within the seven county metropolitan area, as defined in section 473.121, subdivision 2, may adopt an ordinance that allows the licensees to serve intoxicating liquors between the hours of 10 o'clock a.m. and 12 o'clock midnight on Sundays in conjunction with the serving of food, provided that the licensee establishment is in conformance with the Minnesota Clean Indoor Air Act.

(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 organized and existing under sections 473.601 to 473.679, 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 under and pursuant to sections 473.625 to 473.631, 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 commissioner of public safety shall, in addition to all other license fees, require the payment to the commissioner of public safety 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.

(d) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town shall be held on the day of the annual election of town officers.

History: *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; 1971 c 41 s 1; 1971 c 56 s 2; 1971 c 258 s 1; 1971 c 264 s 1; 1971 c 406 s 1; 1971 c 882 s 1; 1973 c 35 s 51; 1973 c 123 art 5 s 7; 1973 c 152 s 1; 1973 c 725 s 63; 1974 c 501 s 2; 1975 c 321 s 2; 1975 c 330 s 1; 1976 c 5 s 11; 1978 c 507 s 2; 1978 c 607 s 2; 1978 c 687 s 1; 1979 c 193 s 1; 1979 c 305 s 6; 1980 c 509 s 64; 1981 c 368 s 1; 1983 c 259 s 4; 1983 c 275 s 1; 1984 c 502 art 12 s 1; 1984 c 562 s 11; 1984 c 654 art 5 s 58 (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.

History: *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.

History: *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.

History: 1941 c 16 s 3

340.145 INTOXICATING LIQUOR TO BE WAREHOUSED IN MINNESOTA.

All intoxicating liquor manufactured outside of the state of Minnesota shall be ordered for delivery only to a warehouse of the manufacturer or wholesaler located in Minnesota, and shall be unloaded into such warehouse before further sale by such manufacturer or wholesaler. Sales and deliveries from such warehouses shall be for consumption in Minnesota only. Notwithstanding the provisions of this section, the manufacturer or United States importer of intoxicating liquor manufactured outside of Minnesota may, on such forms as the director shall prescribe, authorize any Minnesota licensed manufacturer or wholesaler to purchase intoxicating liquor for direct shipment to another state or may appoint such manufacturer or wholesaler as its agent to sell or deliver intoxicating liquor from the Minnesota warehouse inventory of such manufacturer or wholesaler to purchasers in other states.

History: 1978 c 687 s 3

340.15 REGULATION OF ADVERTISING.

Subdivision 1. 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 commissioner of public safety. No regulation shall be construed as prohibiting the advertising of wines by off-sale licensees or municipal liquor stores by means of catalogs distributed by direct mail listing not less than 25 varieties of wine and the price of each.

Subd. 2. No wholesaler or other person shall communicate to a retailer at off-sale in any manner a suggested retail price for the sale of intoxicating liquor.

Subd. 3. This section does not apply to advertising of liquor prices by an off-sale licensee in a newspaper of general circulation published in a bordering state if the newspaper is the primary newspaper of general circulation in the area in which the off-sale licensee is located.

History: Ex1934 c 46 s 9; 1967 c 19 s 15; 1973 c 664 s 5; 1976 c 5 s 11; 1983 c 259 s 5; 1984 c 626 s 4 (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 worshipers 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 commissioner of public safety 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.

History: *Ex1934 c 46 s 11; 1955 c 820 s 41; 1967 c 19 s 16; 1976 c 5 s 11 (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 commissioner of public safety within 30 days after such prescription has been issued.

Subd. 4. Such pharmacist or druggist must first obtain a special permit from the commissioner of public safety, 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.

History: *Ex1934 c 46 s 12; 1937 c 418 s 1; 1967 c 19 s 16; 1976 c 5 s 11 (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) Whoever refuses or neglects to obey any lawful direction of the commissioner of public safety, or his deputy or any of his assistants; withholds any information, book, record, paper, or other thing called for by him for the purpose of examination; obstructs or misleads him in the execution of his duties; or swears falsely concerning any matter stated under oath shall be guilty of a gross misdemeanor.

(8) The commissioner of public safety 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.

History: *Ex1934 c 46 s 13; 1939 c 101 s 3; 1939 c 248 s 1; 1967 c 19 s 16; 1973 c 664 s 6; 1976 c 5 s 11 (3200-33)*

340.20 LOCAL OPTION ELECTIONS, PETITION.

The recorder or clerk of any statutory city or any home rule charter city of the fourth class shall, upon the petition of a number of legal voters of the city equal to 30 percent of the persons voting at the last election in such city or 200 legal voters of the city 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 city 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.

History: *Ex1934 c 46 s 15; 1965 c 218 s 1; 1967 c 145 s 1; 1973 c 123 art 5 s 7; 1976 c 44 s 17 (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 statutory city 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.

History: *Ex1934 c 46 s 16; 1967 c 145 s 2; 1973 c 123 art 5 s 7 (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.

History: *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 election in any such contest in his county, and that any voter of the county may appear at any time before trial and defend as contestee therein by serving written notice of his appearance, signed by himself or his attorney, on the contestant or his attorney, as provided by law, for the service of answers in civil actions. A writ of mandamus shall issue on information of any legal voter of the county to compel the performance of any duty enjoined upon any officer by 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.

History: *Ex1934 c 46 s 28; 1961 c 560 s 30; 1967 c 19 s 16 (3200-48)*

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 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, and may offer recorded or live entertainment and make available coin-operated amusement devices.

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 continue to operate its municipal liquor store?" is submitted to the voters of the city 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 continue to operate its municipal liquor store?" is to be submitted to the electors at the election.

Subd. 3. Scope and application. A city or statutory city 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 statutory city 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 statutory city 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 statutory city under Minnesota Statutes 1965, Section 368.01. Such a city 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 statutory city incorporated after January 1, 1966.

Subd. 5. Issuance of licenses to private persons. Clause 1. Notwithstanding any provision of this chapter, which may indicate the contrary, any city 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 issuing any "on-sale" licenses pursuant to this subdivision may thereafter in connection with the operation of the municipal liquor store continue to engage in the sale of intoxicating liquor at either on-sale or off-sale, or both, or may resume operation of any municipal on-sale or off-sale store previously discontinued.

Clause 2. The number of "on-sale" licenses issued pursuant to this section by any municipality shall not exceed the number authorized by section 340.11, subdivision 5a; provided, that the provisions of section 340.11, subdivision 18, shall apply to any city issuing licenses pursuant to this section.

Clause 3. No city shall issue licenses as provided in this section until authorized by the voters of the city 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.

Subd. 6. Municipalities; certain on-sale licenses. Notwithstanding the provisions of subdivision 5, or any other law to the contrary, a city which did not permit any sale of intoxicating liquor within its boundaries as of June 30, 1969, or was incorporated after that date, may issue on-sale licenses for the sale of intoxicating liquor in accordance with the provisions of subdivision 5.

Subd. 7. Referendum in certain cities. In any city in which the report of the operations of a municipal liquor store has shown a net loss in any two of three

consecutive years, or has shown that no contribution to other municipal funds has been made from the net income of the operation in any two of three consecutive years, the city council shall, not more than 45 days prior to the end of the fiscal year following the three-year period, hold a public hearing on the question of whether the city shall continue to operate a municipal liquor store. Two weeks notice, written in clear and easily understandable language, of the hearing shall be printed in the city's official newspaper. Following the hearing the city council may on its own motion or shall upon petition of five percent or more of the registered voters of the city, submit to the voters at a general or special municipal election the question of whether the city shall continue or discontinue municipal liquor store operations by a date which the city council shall designate. The date designated by the city council shall not be more than 30 months following the date of the election.

Subd. 8. Financial responsibility. Every municipal liquor store operated pursuant to subdivision 1 shall, prior to commencement or continuation of operation after August 1, 1983, demonstrate proof of financial responsibility by compliance with the requirements of section 340.11, subdivision 21.

History: 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; 1973 c 123 art 5 s 7; 1973 c 415 s 1; 1974 c 268 s 3,6; 1975 c 345 s 6; 1978 c 701 s 2; 1981 c 198 s 1; 1981 c 331 s 1; 1982 c 528 s 4; 1983 c 320 s 3

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.

History: 1953 c 162 s 1

340.355 MUNICIPAL LIQUOR STORE; SUSPENSION OF OPERATION, PROCEDURE.

When a municipal officer or employee of a city is convicted of (1) selling intoxicating liquor or non-intoxicating malt liquor to an 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 commissioner of public safety 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 commissioner of public safety. 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.

History: 1953 c 162 s 2; 1973 c 123 art 5 s 7; 1976 c 5 s 11; 1976 c 66 s 5

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 commissioner of public safety may appear and present evidence on behalf of the state.

History: 1953 c 162 s 3; 1976 c 5 s 11

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.

History: 1953 c 162 s 4

340.358 MUNICIPAL LIQUOR STORES, NOTICE OF INTENT TO ESTABLISH.

Any city of the fourth class, or statutory city of less than 10,000 inhabitants 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.

History: 1961 c 582 s 1; 1973 c 123 art 5 s 7

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.

History: *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.

History: *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 commissioner of public safety 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.

History: *1943 c 460 s 1; 1976 c 5 s 11*

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 \$1,250, for a wholesaler, the sum of \$300, 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.

History: 1943 c 460 s 2; 1955 c 820 s 42; 1969 c 1148 s 56; 1981 c 357 s 86

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 appears that the applicant: (1) is not a citizen of the United States or resident alien; or (2) is not 19 years of age or over; 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 stated in clauses (1), (2), (3), and (4).

No wholesale malt beverage license shall be granted to any person unless he has within the state of Minnesota warehouse space either owned or leased by him and has adequate delivery facilities to perform the function of wholesaling malt beverages. However, the requirements of this subdivision as to residence and warehouse space shall not apply to any wholesaler in an adjoining state that 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.

History: 1943 c 460 s 3; 1961 c 299 s 1; 1965 c 482 s 1; 1973 c 725 s 64; 1976 c 66 s 6; 1984 c 609 s 22

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 willful 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.** Either party may appeal from the final judgment of the district court, or from any final order in it, as in other civil cases, within ten days after service of notice of the filing of the judgment or final order. No bond on appeal shall be required. The perfecting of an appeal 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.

History: 1943 c 460 s 4; 1983 c 247 s 134

340.405 BREWERS, WHOLESALERS; NOT TO BE RETAILERS.

No brewer or wholesaler shall, either directly or indirectly, own or control, or have any financial interest in, any retail business selling intoxicating malt liquor; but this restriction shall not be construed to deny such person the right to use or have his property rented for this 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 a 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 the 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 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 \$100 in any calendar year to any one retailer; (3) furnish or maintain for retailers equipment 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 \$100 per tap per calendar year, no part of which shall be paid in cash to any retailer.

History: 1943 c 460 s 5; 1949 c 475 s 2; 1982 c 612 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.

History: 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.

History: 1943 c 460 s 7,8

340.408 JOINT PURCHASES.

No variable volume price or discount shall be offered to a retailer for a quantity of distilled liquor or wine in excess of 300 liter or smaller bottles. The joint purchase for resale to the general public of 300 or fewer liter or smaller bottles of distilled liquor or wine by more than one person lawfully permitted to sell distilled liquor or wine to the general public is lawful. No rule or regulation pursuant to this chapter shall prohibit a lawful purchase pursuant to this section.

History: 1973 c 664 s 7; 1983 c 320 s 4

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]

340.435 FARM WINERY LICENSES.

Subdivision 1. For purposes of this section and of section 340.436:

(a) "Farm winery" means a winery operated by the owner of a Minnesota farm and producing table or sparkling wines from grapes, grape juice, other fruit bases or honey with a majority of the ingredients grown or produced in Minnesota.

(b) "Table or sparkling wines" means a beverage made without rectification or fortification and containing not more than 25 percent of alcohol by volume and made by the fermentation of grapes, grape juice, other fruits or honey.

Subd. 2. The commissioner of public safety may issue a farm winery license to the owner or operator of a farm winery located within the state and producing table or sparkling wines. Licenses shall be issued and renewed on an annual basis upon payment of a fee of \$25, which shall be in lieu of all other license fees required by this chapter.

Subd. 3. A license shall authorize the sale on the farm winery premises of table or sparkling wines produced by that farm winery at on-sale or off-sale in retail or wholesale lots, in total quantities not in excess of 50,000 gallons in any calendar year, glassware, wine literature and accessories, and the dispensing of free samples of the wines offered for sale. Sales at on-sale and off-sale may be made on Sundays between 12 o'clock noon and 12 o'clock midnight. Labels for each type or brand produced shall be registered with the commissioner, without fee, prior to the sale thereof.

Subd. 4. Except as otherwise specified in this section, all provisions of this chapter shall govern the production, sale, possession and consumption of table or sparkling wines produced by a farm winery.

Subd. 5. If Minnesota produced or grown grapes, grape juice, other fruit bases or honey is not available in quantities sufficient to constitute a majority of the table or sparkling wine produced by a farm winery, the holder of the farm winery license may file an affidavit stating this fact with the commissioner of public safety. If the commissioner determines, after consultation with the commissioner of agriculture, this to be true, the farm winery may use imported products and shall continue to be governed by the provisions of this section and section 340.436. The affidavit is effective for a period of one year, after which time the farm winery shall use the required amount of Minnesota products as provided by subdivision 1 unless the farm winery holder files a new affidavit with the commissioner.

History: 1980 c 607 art 19 s 7

340.436 TAXATION.

In lieu of all taxes imposed by section 340.47, there shall be levied and collected on all table or sparkling wines manufactured or produced by a Minnesota farm winery, the following excise tax:

(a) Wines containing 14 percent or less of alcohol by volume, the sum of four cents per liter;

(b) Wines containing more than 14 percent of alcohol by volume, the sum of 13 cents per liter.

Payment and collection of taxes imposed by this section shall be governed by this chapter.

History: 1980 c 607 art 19 s 8

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 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.

History: *Ex1934 c 58 s 1; 1976 c 5 s 3; 1977 c 217 s 2; 1977 c 407 s 2 (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.

History: *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.

History: *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 commissioner of public safety 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 commissioner of public safety 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 commis-

sioner 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. 3a. **Alternative.** The commissioner may by regulation waive the requirement of labels on bottles or cartons and provide an alternate method of paying the fee established by this section.

Subd. 4. **Misdemeanors.** Any sale of intoxicating liquor in this state in violation of this section or of a rule or regulation of the commissioner promulgated hereunder 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.

History: 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; 1974 c 243 s 1,2; 1976 c 5 s 11

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 table wine containing 14 percent or less of alcohol by volume, the sum of 27 cents per gallon;

(2) on all wines containing more than 14 percent and not exceeding 21 percent of alcohol by volume, the sum of 79 cents per gallon;

(3) on all wines containing more than 21 percent and not exceeding 24 percent of alcohol by volume, the sum of \$1.58 per gallon;

(4) on all wines containing more than 24 percent of alcohol by volume, the sum of \$3.08 per gallon;

(5) on all natural and artificial sparkling wines containing alcohol, the sum of \$1.50 per gallon;

(6) on all other distilled spirituous liquors, liqueurs, cordials, and liquors designated as specialties regardless of alcoholic content, the sum of \$4.39 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 1/16 shall be taxed at the same rate as shall be taxed for 1/16 of a gallon; provided, however, that the contents of miniatures containing two fluid ounces or less shall be taxed 12 cents.

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 table wine containing 14 percent or less of alcohol by volume, the sum of seven cents per liter;

(2) on all wines containing more than 14 percent and not exceeding 21 percent of alcohol by volume, the sum of 21 cents per liter;

(3) on all wines containing more than 21 percent and not exceeding 24 percent of alcohol by volume, the sum of 42 cents per liter;

(4) on all 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 40 cents per liter;

(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.

Subd. 1b. [Repealed, 1980 c 607 art 19 s 13]

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 \$2 per barrel of 31 gallons, containing not more than 3.2 percent of alcohol by weight, and a tax of \$4 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 commissioner of revenue. Any brewer producing and selling within this state fermented malt beverages shall receive a credit of \$2 per barrel on the first 75,000 barrels, regardless of alcohol content.

Subd. 2a. **Tax credits.** Subdivision 2 is in effect on July 1, 1976. On August 15, 1976, and on the 15th day of each month thereafter, Minnesota brewers may take the credit authorized by subdivision 2, but the total credit allowed shall not exceed the allowable credit on more than 75,000 barrels produced and sold in Minnesota in any fiscal year beginning July 1, 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.

Subd. 3. [Repealed, Ex1971 c 31 art 7 s 4]

Subd. 4. [Repealed, Ex1971 c 31 art 7 s 4]

Subd. 5. [Repealed, Ex1971 c 31 art 7 s 4]

Subd. 6. [Repealed, Ex1971 c 31 art 7 s 4]

History: 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; Ex1967 c 32 art 14 s 9; 1969 c 399 s 1; 1969 c 881 s 11, 20; Ex1971 c 31 art 7 s 1, 3; 1973 c 483 s 1, 2; 1973 c 664 s 8; 1976 c 5 s 4; 1976 c 189 s 1, 2; 1977 c 407 s 3, 4; 1978 c 766 s 15, 16; 1979 c 297 s 1; 1980 c 607 art 19 s 9, 10 (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. 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. 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.

If any person fails to pay the tax within the time specified or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added a penalty equal to ten percent of the amount so remaining unpaid. The penalty shall be collected as part of the tax, and the amount of the tax not timely paid, together with the penalty, shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

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.

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. [Repealed, 1976 c 5 s 12]

Subd. 5. Failure to file return; penalty. In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, unless it is shown that the failure is not due to willful neglect, there shall be added to the tax in lieu of the ten percent specific penalty provided in subdivision 1: ten percent if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount added to any tax shall be collected at the same time and in the same manner and as a part of the tax, and the amount of tax together with the amount added shall bear interest at the rate specified in section 270.75 from the time

the tax should have been paid until paid unless the tax has been paid before the discovery of the neglect, in which case the amount added shall be collected in the same manner as the tax.

For the purposes of this subdivision, the amount of any taxes required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

Subd. 6. Intent to evade tax; failure to file or filing false return; penalty. Where any person, with intent to evade the tax, fails to file any return required or shall with intent file a false or fraudulent return, there shall also be imposed upon the person an additional penalty equal to 50 percent of any tax (less any amount paid on the basis of the false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the tax and shall be in addition to any other penalties provided by law.

History: 1959 c 485 s 1; 1976 c 5 s 5; 1977 c 407 s 5,6; 1983 c 222 s 38-40

340.49 [Repealed, 1959 c 485 s 7]

340.491 [Repealed, 1976 c 5 s 12]

340.492 MANNER AND TIME OF PAYMENT; PENALTIES; DEPOSIT OF TAX PROCEEDS.

Subdivision 1. Filing date; time of payment. The commissioner of revenue shall issue rules adopting the reporting method for paying and collecting the excise tax on fermented malt beverages. The rules shall require 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 is not 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 20 percent per annum, adjusted as provided in section 270.75, from the date the tax became due until paid. The commissioner shall deposit all moneys received in the funds as provided by section 340.47, subdivision 2.

Subd. 2. Failure to file return. In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, unless it is shown that the failure is not due to willful neglect, there shall be added to the tax in lieu of the ten percent specific penalty provided in subdivision 1: ten percent if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount added to any tax shall be collected at the same time and in the same manner and as a part of the tax, and the amount of tax together with the amount added shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid unless the tax has been paid before the discovery of the neglect, in which case the amount added shall be collected in the same manner as the tax.

For purposes of this subdivision, the amount of any taxes required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

Subd. 3. Intent to evade tax; failure to file or filing false return. Where any person, with intent to evade the tax, fails to file any return required or shall with such intent file a false or fraudulent return, there shall also be imposed upon the person an additional penalty equal to 50 percent of any tax (less any amount paid on

the basis of the false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the tax and shall be in addition to any other penalties provided by law.

History: 1953 c 365 s 2; 1971 c 24 s 36; 1971 c 25 s 64; 1976 c 5 s 6; 3Sp1981 c 2 art 3 s 21; 1983 c 222 s 41

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 commissioner of public safety permitting him so to do.

Subd. 2. Licenses; application, renewal. Such licenses shall be issued by the commissioner of public safety 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 \$200 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 sections 340.02, subdivision 2, or 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.

History: 1953 c 365 s 3; 1955 c 820 s 43; 1969 c 399 s 1; 1969 c 1148 s 57; 1976 c 5 s 11; 1981 c 357 s 87

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 or the sale of commemorative bottles between collectors be subject to the payment of such tax.

History: Ex1934 c 58 s 6; 1937 c 240 s 1; 1977 c 217 s 3 (3200-64)

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.

History: *Ex1934 c 58 s 7; 1977 c 407 s 7 (3200-65)*

340.515 REFUNDS.

The commissioner of revenue may refund to the taxpayer the amount of tax paid pursuant to sections 340.47 to 340.493 on any intoxicating liquors or fermented malt beverages which become unfit for human consumption and are destroyed pursuant to an order by a federal, state, or local agency while being held for sale by a licensed retailer provided that satisfactory proof is presented to the commissioner by the taxpayer and the licensed retailer to establish that the retailer was not indemnified by any valid claim of insurance in respect of the tax on the intoxicating liquors or fermented malt beverages. The commissioner of revenue may prescribe the method of proof required for obtaining the refund.

The commissioner of revenue may, at his discretion, credit the amount determined under this section against taxes otherwise payable under this chapter by the taxpayer.

Any claim for refund shall be filed with the commissioner within one year from the date of the order made by the federal, state, or local agency, except that for agency orders dated after December 31, 1977 and prior to January 1, 1979, claims for refund shall be filed with the commissioner before May 23, 1980. There is appropriated annually from the general fund to the commissioner of revenue the sums necessary to make the refunds provided by this section.

History: *1979 c 148 s 1*

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.

History: *Ex1934 c 58 s 9 (3200-67)*

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 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 340.961, 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 commissioner of public safety 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 340.961, 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 shall be complete upon compliance with the following procedure:

The commissioner of public safety and his designated inspectors and employees shall file with the court a separate complaint against the vehicle or conveyance, describing it 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, the vehicle or conveyance, and to persons unknown claiming any such right, title, interest or lien, describing the vehicle or conveyance and stating that (1) it was seized and that a complaint against it, charging the specified violation, has been filed with the court, (2) requiring the 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 the vehicle or conveyance, within ten days after the service of the order, and (3) notifying them in substance that if they fail to 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 it has been released or satisfied, and upon any other person known or believed to have any right, title, interest in, or lien upon, the 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 within the time prescribed, the court shall, upon affidavit by the clerk of the court, setting forth that fact, order the vehicle or conveyance sold by the commissioner or his agents. The proceeds of the sale, after deducting the expense of keeping the vehicle or conveyance and fees and costs of sale, shall be paid into the state treasury. If answer is filed within the time

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 fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court, without a jury, as in other civil cases. If the court finds that the vehicle or conveyance, or any part of it, was used in the violation specified in the complaint, he shall order the vehicle or conveyance so unlawfully used, sold as provided by law, unless the owner shows to the satisfaction of the court that the vehicle was being used without his consent or that at the time of giving 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 the 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 the vehicle or conveyance was being used or was intended to be used for or in connection with any 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 on it, and appeal from the order of the district court will lie as in other civil cases. At any time after seizure, and before the hearing provided for, the vehicle or conveyance shall be returned to the owner or person having a legal right to possession of it, upon execution by him of a good and valid bond to the state, 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 of it, 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.

History: *Ex1934 c 58 s 10; 1945 c 310 s 1; 1953 c 729 s 1; 1959 c 485 s 4; 1965 c 444 s 1; 1976 c 5 s 11; 1977 c 407 s 8; 1Sp1981 c 4 art 1 s 160,161; 1983 c 247 s 135 (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 of public safety and the commissioner of revenue, 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.

History: *Ex1934 c 58 s 11; 1957 c 233 s 3; 1959 c 485 s 5; 1977 c 407 s 9 (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.

History: *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 1,500 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.

History: 1935 c 78 s 1; 1949 c 536 s 1; 1953 c 440 s 1 (3200-71)

NOTE: This section is repealed effective August 1, 1984, contingent upon approval of Laws 1984, chapter 626, section 10, by the St. Paul city council.

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.

History: 1935 c 78 s 2 (3200-72)

NOTE: This section is repealed effective August 1, 1984, contingent upon approval of Laws 1984, chapter 626, section 10, by the St. Paul city council.

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.

History: 1935 c 78 s 3 (3200-73)

NOTE: This section is repealed effective August 1, 1984, contingent upon approval of Laws 1984, chapter 626, section 10, by the St. Paul city council.

340.60 LIQUOR RECEIPTS.

Subdivision 1. **Paid into state treasury.** All taxes, penalties, license fees, and receipts of every kind, character, and description provided for and payable to the state under the terms and provisions of the intoxicating liquor act and sections 340.44 to 340.56, including all moneys collected by the commissioners of public safety and revenue 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 general fund of the state.

Subd. 2. [Repealed, 1973 c 650 art 11 s 2]

Subd. 3. [Repealed, 1973 c 650 art 11 s 2]

Subd. 4. [Repealed, 1973 c 650 art 11 s 2]

Subd. 5. [Repealed, 1973 c 650 art 11 s 2]

Subd. 6. [Repealed, 1973 c 650 art 11 s 2]

Subd. 7. MS 1945 [Repealed, 1949 c 501 s 1]

Subd. 7. MS 1971 [Repealed, 1973 c 650 art 11 s 2]

History: 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; Ex1971 c 31 art 7 s 2; 1973 c 650 art 11 s 1; 1976 c 5 s 11 (3200-75)

340.601 IMPORT; TAX EVASION, MISDEMEANOR.

A person, excluding persons of minor age and other disqualified persons as provided by section 340.73, who enters the state of Minnesota from another state may have in his personal possession one liter of intoxicating liquor or 288 ounces of fermented malt beverages or who enters the state of Minnesota from a foreign country may have in his possession four liters of intoxicating liquor or ten quarts

MINNESOTA STATUTES 1984

340.601 INTOXICATING LIQUORS

7100

(320 ounces) of fermented malt beverages without the required payment of the Minnesota excise tax. A 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 section 340.73, 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. A person who imports or has in his possession any untaxed intoxicating liquor or fermented malt beverages in excess of the quantities provided for in this section is guilty of a misdemeanor. These 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 alcoholic beverages when duly licensed by the commissioner or to common carriers with licenses to sell intoxicating liquor in more than one state. A peace officer, the commissioner, or the commissioner's authorized agents, may seize such untaxed liquor.

History: 1947 c 601 s 3; 1957 c 233 s 5; 1961 c 496 s 1; 1963 c 439 s 1; 1976 c 118 s 1; 1977 c 217 s 4; 1984 c 522 s 17; 1984 c 626 s 5

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 \$20 for each brand label.

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

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

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

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

History: 1935 c 390 s 1; 1943 c 308 s 1; 1945 c 291 s 1; 1969 c 399 s 1; 1981 c 357 s 88 (3200-78)

340.621 INTOXICATING OR NONINTOXICATING LIQUOR; REGISTRATION OF BRAND BY OWNER.

The label of any brand of wine or intoxicating or nonintoxicating malt beverage may be registered only by the brand owner or its authorized agent. No such brand may be imported for sale within the state without the consent of the brand owner or its authorized agent.

Nothing in this section shall be construed to repeal, limit or otherwise affect the provisions of section 340.114.

History: 1980 c 583 s 1; 1Sp1981 c 1 art 10 s 21

SEIZED LIQUOR, DISPOSAL**340.63 SEIZED LIQUORS; DESTRUCTION, DISPOSAL.**

Subdivision 1. Contingent upon the final determination of any action pending in any court, the commissioner of public safety 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 human services, 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 commissioner of public safety 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 commissioner of public safety with the state treasurer and such money shall be credited to the general fund.

Subd. 3. Sales of intoxicating liquor made by the commissioner of public safety, 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.

History: 1937 c 151 s 1; 1943 c 165 s 1; 1945 c 307 s 1; 1969 c 399 s 1; 1976 c 5 s 11; 1984 c 654 art 5 s 58 (3200-79)

340.64 REPORT TO DEPARTMENT OF HUMAN SERVICES.

The commissioner of public safety shall make a report to the department of human services 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.

History: 1937 c 151 s 2; 1976 c 5 s 11; 1984 c 654 art 5 s 58 (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.

History: 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.

History: 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.

History: 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.

History: 1929 c 249 s 1 (3238-2 1/2)

340.72 [Repealed, 1967 c 19 s 19]

340.73 PERSONS TO WHOM SALES ARE ILLEGAL.

Subdivision 1. It is 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 intoxicating liquors or nonintoxicating malt liquors in any quantity, for any purpose, to any person under the age of 19 years, or to any obviously intoxicated person.

Subd. 2. [Repealed, 1984 c 626 s 14]

Subd. 3. Whoever in any way procures intoxicating liquor or nonintoxicating malt liquor for the use of any person named in this section shall be deemed to have

sold it to that person. Any person violating any of the provisions of this section is guilty of a gross misdemeanor.

History: *RL 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; 1976 c 66 s 7; 1982 c 528 s 5,6 (3238-4)*

340.731 PERSONS UNDER 19 YEARS, FORBIDDEN ACTS OR STATEMENTS.

It shall be unlawful for (1) a person under the age of 19 years 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 person under the age of 19 years to purchase, attempt to purchase or have another purchase for him or her any intoxicating liquor or nonintoxicating malt 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 person under the age of 19 years; or

(4) a person under the age of 19 years to have in his or her possession any intoxicating liquor or non-intoxicating malt liquor, with intent to consume same at a place other than the household of his or her parent or guardian. Possession of such intoxicating liquor or nonintoxicating malt liquor at a place other than the household of his or her parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his or her parent or guardian; or

(5) a person under the age of 19 years to consume any intoxicating liquor or nonintoxicating malt liquor unless in the household of his or her parent or guardian and with the consent of his or her parent or guardian.

History: *1949 c 415 s 1; 1953 c 483 s 2; 1957 c 415 s 2; 1976 c 66 s 8; 1984 c 622 s 22*

340.732 VIOLATIONS, PENALTIES.

Any person who violates any provision of section 340.731 is guilty of a misdemeanor.

In addition, any person under the age of 19 years who is convicted of purchasing or attempting to purchase an alcoholic beverage in violation of section 340.731 shall have his or her driver's license or permit to drive revoked by the commissioner of public safety for a period of 30 days if the person used a driver's license or permit to purchase or attempt to purchase the alcoholic beverage.

History: *1949 c 415 s 2; 1984 c 622 s 23*

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

340.74 INTOXICATING LIQUORS

7104

such liquors may be examined by any police officer for the purpose of tracing such liquors to the shipper or receiver.

History: *RL 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.

History: *RL 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.

History: *RL s 1558 (3238-8)*

340.78 [Repealed, 1984 c 626 s 14]

340.79 GIVING TO OR PROCURING FOR CERTAIN PERSONS; PENALTY.

Any person who shall give to, procure or purchase, intoxicating liquors for any person under the age of 19 years 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.

History: *1911 c 290 s 1; 1976 c 66 s 10 (3238-10)*

340.80 INDUCING CERTAIN PERSONS TO ENTER LIQUOR ESTABLISHMENTS; PENALTY.

Any person who shall assist, procure or induce any person under the age of 19 years 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.

History: *1911 c 369 s 1; 1976 c 66 s 11 (3238-11)*

340.81 [Repealed, 1984 c 626 s 14]

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 correctional facility 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.

History: 1905 c 72 s 1,2; 1979 c 102 s 13 (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. **Notification.** When any municipal liquor store or licensed dealer in intoxicating liquor or nonintoxicating fermented malt beverages, his agent or employee is convicted of (1) a violation of any provision of 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 court 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 commissioner of public safety.

History: RL s 1561; 1955 c 57 s 1; 1976 c 5 s 11; 1983 c 359 s 26 (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.

History: RL 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.

History: RL 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.

History: 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.

History: 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.

History: 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. For this purpose, the conductor has the same power and authority as any peace officer, including the power to summon assistance, and to deliver the person arrested to any public officer of the county in which the offense was committed. It shall be the duty of the officer to bring the person charged with the offense before the nearest county or municipal court of the county where the offense was committed and to make a complaint against the person. A complaint made upon information and belief of the officer is sufficient.

History: 1911 c 28 s 1; 1913 c 417 s 4; 1983 c 359 s 27 (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.

History: 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.

History: 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.

History: *RL 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.

History: *RL s 1565 (3238-18 1/2)*

340.942 EVIDENCE OF DEFENDANT REGARDING INVESTIGATION OF STATUS OF PURCHASER.

In any criminal proceeding for the enforcement of the provisions of sections 340.035, 340.73, 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.

History: *1957 c 823 s 1; 1969 c 6 s 44; 1971 c 24 s 37*

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, or incurs other pecuniary loss 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 or non-intoxicating malt liquors, caused the intoxication of that person, for all damages sustained. All damages recovered by a minor under this section shall be paid either to the minor or to his parent, guardian, or next friend, as the court directs. All suits for damages under this section shall be by civil action in any court of this state having jurisdiction. 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, do not apply to actions for injury to person,

property, or loss of means of support brought by a husband, wife, child, parent, guardian or other dependent of an intoxicated person.

History: 1911 c 175 s 1; 1977 c 390 s 1; 1982 c 528 s 7 (3239)

340.951 NOTICE OF INJURY.

Every person who claims damages, and every person or his insurer who claims contribution or indemnity, from any municipality owning and operating a municipal liquor store or from the licensee of any licensed establishment for the sale of intoxicating liquor or non-intoxicating malt liquor 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, as the case may be, stating:

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

(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. Every municipality or licensee who claims contribution or indemnification from any other licensee or municipality shall give a written notice in the form and manner specified in this section to the other municipality or licensee.

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

In the case of claims for contribution or indemnity this notice shall be served within 120 days after the injury occurs, or within 60 days after receiving written notice of a claim for contribution or indemnity, whichever is applicable, and no action for contribution or indemnity therefor shall be maintained unless the notice has been given. In the case of a claim for damages the notice shall be served by the claimant's attorney within 120 days of the date of entering an attorney-client relationship with the person in regard to the claim, and no action for damages shall be maintained unless the notice has been given.

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

No action shall be maintained for injury under section 340.95 unless commenced within two years after the injury.

History: 1969 c 952 s 1; 1977 c 390 s 2; 1982 c 528 s 8; 1982 c 642 s 11

340.96 [Repealed, 1971 c 90 s 2]

340.961 DRUNKENNESS NOT A CRIME.

Notwithstanding any provision of local laws or ordinances no person shall be charged with or convicted of the offense of drunkenness or public drunkenness. Nothing herein shall prevent the prosecution and conviction of any intoxicated person for offenses other than drunkenness or public drunkenness nor shall this section relieve any person from civil liability for any injury to persons or property caused by such person while intoxicated.

History: 1971 c 90 s 1

340.97 [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]

340.971 [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]

340.972 [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]

- 340.973** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]
- 340.974** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]
- 340.975** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]
- 340.976** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]
- 340.977** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]
- 340.978** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]
- 340.98** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]
- 340.981** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]
- 340.9815** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]
- 340.982** [Repealed, 1973 c 444 s 1; 1973 c 664 s 10]

LIQUORS, WINES; WHOLESALE PRICE SCHEDULE

340.983 FILING OF WHOLESALE PRICE SCHEDULE.

No brand owner or wholesaler of distilled spirits or wine shall sell, offer for sale, or solicit any order for distilled liquor or wine unless a schedule of wholesale prices, which shall include varying volume prices, is filed with the commissioner, on a form prescribed by him, and no sales shall be made except in accordance with these prices. Forms shall provide for the listing of the price, including any varying volume prices, at which each brand distributed by the filing wholesaler or brand owner is sold. The commissioner shall maintain filings in such a manner as to make their contents easily accessible to the public. The filings required under this section shall be made not later than the first day of each month, and the schedule of filed prices shall be effective from that day until the first day of the next month, provided that any filing may be amended within five days after its filing. The commissioner shall provide copies of filings to any person requesting them, and may charge a reasonable fee therefor. Any person may examine filings in the office of the commissioner, and no charge shall be made for such examination.

History: 1969 c 1119 s 4; 1973 c 664 s 9; 1975 c 327 s 1; 1983 c 259 s 7; 1983 c 320 s 5

- 340.984** [Repealed, 1973 c 664 s 10]
- 340.985** [Repealed, 1973 c 664 s 10]
- 340.986** [Repealed, 1983 c 342 art 6 s 13]

340.987 COLLECTION OF TAX; PENALTIES.

Subdivision 1. Commissioner to examine and correct return; collection of deficiency. As soon as practicable after any return is filed as directed by this chapter, the commissioner shall examine the return and correct it, if necessary, according to his best judgment and information. The return, together with the commissioner's corrections, if any, shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. If the commissioner finds that any amount of tax is due and unpaid, he shall notify the taxpayer of the deficiency, stating that he proposes to assess the amount due together with interest and penalties as hereinafter provided. If a deficiency disclosed by the commissioner's examination cannot be allocated by him to a particular month or months, he shall notify the taxpayer of the deficiency, assessing the amount due for a given period without allocating it to any particular month or months, together with the penalty provided in the case of other corrected returns. If any taxpayer making any return shall die or shall become incompetent at any time before the commission-

er issues his notice that he proposes to assess an amount due, that notice shall be issued to the administrator, executor, or other legal representative, as such, of that distributor.

Subd. 2. **Monthly tax payments; penalty for nonpayment.** All taxes shall be due and payable as directed in this chapter, and taxes not paid shall bear interest at the rate specified in section 270.75. The commissioner in issuing his final assessment shall add to the amount of tax found due and unpaid a penalty of ten percent thereof, except that, if he finds that the taxpayer has made a false and fraudulent return with intent to evade the tax imposed by this chapter, the penalty shall be 25 percent of the entire tax as shown by the corrected return. If the tax is not paid within the time herein specified for the payment thereof or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added thereto a specific penalty equal to ten percent of the amount so remaining unpaid, but in no event shall the penalty for failure to pay the tax within the time provided for payment be less than \$10. The commissioner is authorized to extend the time for paying the tax without penalty for good cause shown.

Subd. 3. **Recovery by commissioner.** The commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action. The collection of a tax, interest, or penalty shall not be a bar to any prosecution under this chapter.

Subd. 4. **Penalty; maximum; minimum; extension.** If any return required to be filed under the provisions of this section is not filed within the time herein specified, a penalty of five percent of the unpaid tax remaining each month up to a maximum of 25 percent is imposed, but in no event shall the penalty for failing to timely file a return be less than \$10. The commissioner of revenue is authorized to extend the time for filing a return without penalty for good cause shown.

History: 1984 c 522 s 18

340.988 EVASIONS; VIOLATIONS.

Subdivision 1. **Assessment, generally.** Except as otherwise provided in this chapter, the amount of any tax due shall be assessed within 3-1/2 years after the return is filed. The taxes are deemed to have been assessed within the meaning of this section whenever the commissioner of revenue has determined the tax and computed and recorded the amount of tax with respect thereto, and if the amount is found to be in excess of that originally declared on the return, whenever the commissioner has prepared a notice of tax assessment and mailed it to the taxpayer. The notice of tax assessment shall be sent by mail to the post office address given in the return and the record of mailing shall be presumptive evidence of the giving of notice, and such records shall be preserved by the commissioner.

Subd. 2. **Computation of time.** For the purposes of this section, a return filed before the last day prescribed by law for the filing thereof is considered as filed on the last day.

Subd. 3. **False or fraudulent return and no return.** When a company, joint stock association, copartnership, corporation, or individual required to file a return under this chapter files a false or fraudulent return or fails to file a return, the tax may be assessed, and the attorney general may begin proceedings at any time.

Subd. 4. **Consent to extend time.** Where, before the expiration of the time prescribed in subdivision 1 for the assessment of the tax, the commissioner of revenue and the company, joint stock association, copartnership, corporation, or individual filing the return consent in writing to an extension of time for the assessment of the tax, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent

MINNESOTA STATUTES 1984

7111

INTOXICATING LIQUORS 340.988

agreements in writing made before the expiration of the period previously agreed upon.

Subd. 5. Omission in excess of 25 percent. If the taxpayer omits an amount properly includable therein which is in excess of 25 percent of the amount of tax stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun at any time within six years after the return was filed.

History: 1984 c 522 s 19