

## CHAPTER 340A

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## DEFINITIONS

## 340A.101 DEFINITIONS.

Subdivision 1. **Terms.** For purposes of this chapter the following terms have the meanings given them.

Subd. 2. **Alcoholic beverage.** "Alcoholic beverage" is any beverage containing more than one-half of one percent alcohol by volume.

Subd. 3. **Affiliate or subsidiary company.** "Affiliate or subsidiary company" is a company in which a manufacturer or its stockholders own a majority of the stock.

Subd. 4. **Brewer.** "Brewer" is a person who manufactures malt liquor for sale.

Subd. 5. **City.** "City" is a home rule charter or statutory city unless otherwise specified.

Subd. 6. **Commissioner.** "Commissioner" is the commissioner of public safety except as otherwise provided.

Subd. 7. **Club.** "Club" is an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improve-

ment, or for the promotion of sports, or a congressionally chartered veterans' organization, which:

- (1) has more than 50 members;
- (2) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
- (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

Subd. 8. **Department.** "Department" is the department of public safety except as otherwise provided.

Subd. 9. **Distilled spirits.** "Distilled spirits" is ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

Subd. 10. **Exclusive liquor store.** "Exclusive liquor store" is an establishment used exclusively for the sale of intoxicating liquor except for the incidental sale of ice, tobacco, nonintoxicating malt liquor, beverages for mixing with intoxicating liquor, and soft drinks may also be sold, and the establishment may offer recorded or live entertainment and make available coin-operated amusement devices. "Exclusive liquor store" also includes an on-sale or combination on-sale and off-sale intoxicating liquor establishment which sells food for on-premise consumption when authorized by the municipality issuing the license.

Subd. 11. **Farm winery.** "Farm winery" is 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.

Subd. 12. **General food store.** "General food store" is a business primarily engaged in selling food and grocery supplies to the public for off-premise consumption.

Subd. 13. **Hotel.** "Hotel" is an establishment where food and lodging are regularly furnished to transients and which has:

- (1) a resident proprietor or manager;
- (2) a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and
- (3) guest rooms in the following minimum numbers: in first class cities, 50; in second class cities, 25; in all other cities, 10.

Subd. 14. **Intoxicating liquor.** "Intoxicating liquor" is ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 15. **Licensed premises.** "Licensed premises" is the premises described in the approved license application.

Subd. 15a. **Low alcohol malt liquor.** "Low alcohol malt liquor" is a fermented malt beverage containing two percent or less of alcohol by weight. Notwithstanding any law or rule to the contrary, if either; (a) the term "low alcohol" appears on the label of the beverage container; or (b) a brewer has provided written certification to the department of public safety establishing an alcoholic content of two percent or less by weight; no further label shall be required on that container.

Subd. 16. **Malt liquor.** "Malt liquor" is any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

Subd. 17. **Manufacturer.** "Manufacturer" is a person who, by a process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquor for sale.

Subd. 18. **Municipality.** "Municipality" is a city, county or, for purposes of

licensing under section 340A.404, subdivision 7, the metropolitan airports commission.

Subd. 19. **Nonintoxicating malt liquor.** "Nonintoxicating malt liquor" is malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Subd. 20. **Off-sale.** "Off-sale" is the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

Subd. 21. **On-sale.** "On-sale" is the sale of alcoholic beverages for consumption on the licensed premises only.

Subd. 22. **Package.** "Package" is a sealed or corked container of alcoholic beverages.

Subd. 23. **Person.** "Person" has the meaning given it in section 645.44, subdivision 7.

Subd. 24. **Population.** "Population" is determined by the most recent federal decennial census or a special census taken under law.

Subd. 25. **Restaurant.** "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public, and having seating capacity for guests in the following minimum numbers:

- |  |     |
|--|-----|
| (a) First class cities   | 50  |
| (b) Second and third class cities<br>and statutory cities of over<br>10,000 population             | 30  |
| (c) Unincorporated or unorganized<br>territory other than in Cook,<br>Lake, and St. Louis counties | 100 |
| (d) Unincorporated or unorganized<br>territory in Cook, Lake, and<br>St. Louis counties            | 50  |

In the case of classes (b) and (c) above, the governing body of a city or county may prescribe a higher minimum number. In fourth class cities and statutory cities under 10,000 population, minimum seating requirements are those prescribed by the governing body of the city.

Subd. 26. **Retail.** "Retail" is sale for consumption.

Subd. 27. **Table or sparkling wine.** "Table or sparkling wine" is 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. 28. **Wholesaler.** "Wholesaler" is a person who sells alcoholic beverages to persons to whom sale is permitted under section 340A.310, from a stock maintained in a warehouse in the state.

Subd. 29. **Wine.** "Wine" is sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than seven percent nor more than 24 percent alcohol by volume for nonindustrial use.

**History:** 1985 c 117 s 3; 1985 c 305 art 3 s 1; 1Sp1985 c 16 art 2 s 3 subd 1

## DEPARTMENT OF PUBLIC SAFETY

### 340A.201 LIQUOR CONTROL AUTHORITY.

The commissioner of public safety is the successor to the commissioner of liquor control with respect to the powers and duties vested in the latter as of February 6, 1976, except for those powers and duties transferred to the commissioner of revenue. Any

proceeding, court action, prosecution, or other business undertaken or commenced as of February 6, 1976, by the commissioner of liquor control is assigned to the commissioners of public safety and revenue as appropriate and may be completed by them.

**History:** 1985 c 305 art 4 s 1

## MANUFACTURERS, WHOLESALERS, IMPORTERS

### 340A.301 MANUFACTURERS AND WHOLESALERS LICENSES.

**Subdivision 1. Licenses required.** No person may directly or indirectly manufacture or sell at wholesale intoxicating liquor, or nonintoxicating malt liquor without obtaining an appropriate license from the commissioner, except where otherwise provided in this chapter. A manufacturer's license includes the right to import. A licensed brewer of malt liquor may sell products at wholesale without an additional license. A licensed wholesaler of intoxicating malt liquor may sell nonintoxicating malt liquor at wholesale without an additional license. The business of manufacturer and wholesaler may be combined and carried on under a single manufacturer's license.

**Subd. 2. Persons eligible.** Licenses under this section may be issued only to a person who:

- (1) is a citizen of the United States or a resident alien;
- (2) is of good moral character and repute;
- (3) is 21 years of age or older;
- (4) has not had a license issued under this chapter revoked within five years of the date of license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; and
- (5) has not been convicted within five years of the date of license application of a felony, or of a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages.

**Subd. 3. Application.** An application for a license under this section must be made to the commissioner on a form the commissioner prescribes.

**Subd. 4. Bond.** The commissioner may not issue a license under this section to a person who has not filed a bond with corporate surety, or cash, or United States government bonds payable to the state. The proof of financial responsibility must be approved by the commissioner before the license is issued. The bond must be conditioned on the licensee obeying all laws governing the business and paying when due all taxes, fees, penalties and other charges, and must provide that it is forfeited to the state on a violation of law. Bonds must be in the following amounts:

Manufacturer's and wholesalers of intoxicating liquor except as provided in this subdivision	\$10,000
Manufacturers and wholesalers of wine up to 25 percent alcohol by weight	\$ 5,000
Manufacturers and wholesalers of beer of more than 3.2 percent alcohol by weight	\$ 1,000

**Subd. 5. Period of license.** Licenses issued under this section are valid for one year except that to coordinate expiration dates initial licenses may be issued for a shorter period.

**Subd. 6. Fees.** The annual fees for licenses under this section are as follows:

(a) Manufacturers (except as provided in clauses (b) and (c))	\$7,500
Duplicates	\$3,000
(b) Manufacturers of wines of not more than 25 percent alcohol by volume	\$ 500
(c) Brewers	\$1,250
(d) Wholesalers (except as provided in clauses (e), (f), and (g))	\$7,500
Duplicates	\$3,000
(e) Wholesalers of wines of not more than 25 percent alcohol by volume	\$ 750
(f) Wholesalers of intoxicating malt liquor	\$ 300
Duplicates	\$ 15
(g) Wholesalers of nonintoxicating malt liquor	\$ 10

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee, the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

**Subd. 7. Interest in other business.** A holder of a license as a manufacturer, brewer, or wholesaler may not have any ownership, in whole or in part, in a business holding a retail intoxicating liquor or nonintoxicating malt liquor license, but a manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales if the manufacturer or wholesaler has owned the property continuously since November 1, 1933.

**Subd. 8. Sales without license.** A licensed brewer may without an additional license sell malt liquor to employees or retired former employees, in amounts of not more than 768 fluid ounces in a week for off-premise consumption only. A collector of commemorative bottles, those terms are as defined in section 297C.01, subdivisions 4 and 5, may sell them to another collector without a license. It is also lawful for a collector of beer cans to sell unopened cans of a brand which has not been sold commercially for at least two years to another collector without obtaining a license. The amount sold to any one collector in any one month shall not exceed 768 fluid ounces. A licensed manufacturer of wine containing not more than 25 percent alcohol by volume nor less than 51 percent wine made from Minnesota-grown agricultural products may sell at on-sale or off-sale wine made on the licensed premises without a further license.

**Subd. 9. Unlicensed manufacture.** Nothing in this chapter requires a license for the natural fermentation of fruit juices or brewing of beer in the home for family use.

**History:** 1985 c 305 art 5 s 1; 1985 c 308 s 1; 1Sp1985 c 16 art 2 s 3 subd 1; 1986 c 330 s 4

### 340A.302 IMPORTERS.

**Subdivision 1. Licenses required.** Except as provided in section 340A.301, subdivision 1, no person may ship alcoholic beverages or ethyl alcohol to a licensed manufacturer or wholesaler without obtaining an importer's license from the commissioner.

**Subd. 2. Terms; application.** Importers' licenses must be applied for on a form the commissioner prescribes. The form must contain, along with information the commissioner requires, an agreement on the part of the applicant to obey all laws relating to the importation and sale of intoxicating liquor.

**Subd. 3. Fees.** Annual fees for licenses under this section are as follows:

Importers of distilled spirits, wine, or ethyl alcohol	\$300
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Importers of malt liquor

\$200

Subd. 4. **Bonds.** The commissioner may, if needed to protect revenue, require the holder of a license to import malt liquor, file a bond in an amount of not less than \$1,000 nor more than \$5,000, payable to the state and conditioned on the payment of all excise taxes due the state.

**History:** 1985 c 305 art 5 s 2

### 340A.303 TRANSFERS.

A license under section 340A.301 or 340A.302 may be transferred only with the commissioner's consent. When a licensee is a corporation a change in ownership of more than ten percent of its stock must be reported to the commissioner within ten days of the change.

**History:** 1985 c 305 art 5 s 3

### 340A.304 LICENSE SUSPENSION AND REVOCATION.

The commissioner shall revoke, or suspend for up to 60 days, a license issued under section 340A.301 or 340A.302, or impose a fine of up to \$2,000 for each violation, on a finding that the licensee has violated a state law or rule of the commissioner relating to the possession, sale, transportation, or importation of alcoholic beverages. A license revocation or suspension under this section is a contested case under sections 14.57 to 14.70 of the administrative procedure act.

**History:** 1985 c 305 art 5 s 4; 1985 c 309 s 11; 1Sp1985 c 16 art 2 s 3 subd 1

### 340A.305 WAREHOUSING.

Subdivision 1. **Facilities.** All licensed wholesalers must own or lease warehouse space within the state and must have adequate delivery facilities to perform the function of a wholesaler.

Subd. 2. **Unloading.** Except as provided in this chapter alcoholic beverages manufactured outside the state may be shipped into the state only to licensed wholesalers and must be unloaded into the wholesaler's warehouse located in the state. Licensed wholesalers may distribute alcoholic beverages only from the warehouse.

Subd. 3. **Reciprocity.** The provisions of this section relating to warehousing do not apply to a wholesaler of malt liquor located in an adjoining state which permits wholesalers licensed in Minnesota to deliver malt liquor to retailers without warehousing in that state.

Subd. 4. **Direct shipment.** Notwithstanding the provisions of this section, a manufacturer or United States importer of intoxicating liquor manufactured outside Minnesota may authorize, on a form the commissioner prescribes, a Minnesota-licensed manufacturer or wholesaler to purchase intoxicating liquor for direct shipment to another state, or may appoint a Minnesota-licensed manufacturer or wholesaler as its agent to sell or deliver intoxicating liquor to purchasers in other states from the Minnesota warehouse inventory of the Minnesota manufacturer or wholesaler.

**History:** 1985 c 305 art 5 s 5

### 340A.306 FRAUDULENT SHIPMENTS.

(a) It is unlawful for:

(1) any person to knowingly deliver or cause to be delivered to a common carrier alcoholic beverages under a false title, name, brand, or trademark; or

(2) any person, or a common carrier, or an agent of either to knowingly receive a fraudulent shipment under clause (1).

(b) A peace officer may examine the books and way bills of a common carrier for the purpose of tracing a fraudulent shipment to a shipper or receiver.

**History:** 1985 c 305 art 5 s 6

**340A.307 UNLAWFUL DISCRIMINATION.**

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

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

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

(c) A sale of intoxicating liquor to a wholesaler or manufacturer on terms of purchase different from those offered another 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, other terms may be employed, including denial of credit.

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

(e) A sale conditioned on 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" does not include "pop wines" as they are defined by rule of the commissioner.

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

In determining the lowest price for which liquor is being sold in any other state or in the District of Columbia, or to a state or state agency which owns and operates retail liquor stores, appropriate reductions must be made to reflect all discounts, rebates, free goods, allowances, and other inducements of any kind whatsoever offered or given to any wholesaler, state, or state agency purchasing the liquor in another state or in the District of Columbia. This subdivision does not 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, "state taxes or fees" are the excise taxes imposed or the fees required by any state or the District of Columbia based on a quantity of liquor.

Subd. 4. **Exceptions.** Nothing in this section applies to

(a) wine or malt liquor of any alcohol content; or

(b) 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:** 1985 c 305 art 5 s 7

**340A.308 PROHIBITED TRANSACTIONS.**

(a) No brewer or malt liquor wholesaler may directly or indirectly, or through an affiliate or subsidiary company, or through an officer, director, stockholder, or partner:

(1) give, or lend money, credit, or other thing of value to a retailer;

- (2) give, lend, lease, or sell furnishing or equipment to a retailer;
- (3) have an interest in a retail license; or
- (4) be bound for the repayment of a loan to a retailer.
- (b) This section does not prohibit a manufacturer or wholesaler from:
  - (1) furnishing, lending, or renting to a retailer outside signs, of a cost of up to \$100 excluding installation and repair costs;
  - (2) furnishing, lending, or renting to a retailer inside signs and other promotional material, of a cost of up to \$100 in a year;
  - (3) furnishing to or maintaining for a retailer equipment for dispensing malt liquor, including tap trailers, cold plates and other dispensing equipment, of a cost of up to \$100 per tap in a year;
  - (4) using or renting property owned continually since November 1, 1933, for the purpose of selling intoxicating or nonintoxicating malt liquor at retail; or
  - (5) extending customary commercial credit to a retailer in connection with a sale of nonalcoholic beverages only.

**History:** 1985 c 88 s 1,2; 1985 c 201 s 1,2; 1985 c 305 art 5 s 8; 1Sp1985 c 16 art 2 s 3 subd 1

**340A.309 EXCLUSIVE CONTRACTS.**

A manufacturer, brewer, or wholesaler may not directly or indirectly make an agreement with a retailer which binds the retailer to purchase the products of one manufacturer or brewer to the exclusion of the products of other manufacturers and brewers. A retailer who is a party to a violation of this section or who receives the benefits of a violation is equally guilty of a violation.

**History:** 1985 c 305 art 5 s 9

**340A.310 SALES TO WHOLESALERS.**

A wholesaler may sell intoxicating liquor or nonintoxicating malt liquor only to municipal liquor stores, government instrumentalities, or holders of alcoholic beverage licenses issued under this chapter.

**History:** 1985 c 305 art 5 s 10

**340A.311 BRAND REGISTRATION.**

(a) A brand of intoxicating liquor or nonintoxicating malt liquor may not be manufactured or imported into the state unless the brand label has been registered with and approved by the commissioner. The fee for brand registration is \$20. The brand label of a brand of intoxicating liquor or nonintoxicating malt liquor which has not been sold in the state for two years or more must be reregistered before its sale can be resumed. The brand label of a brand of intoxicating liquor or nonintoxicating malt liquor which has not been sold in the state for at least three years is conclusively deemed abandoned by the manufacturer or importer.

(b) In this section "brand" and "brand label" include trademarks and designs used in connection with labels.

(c) A brand label may be registered only by the brand owner or authorized agent. No brand may be imported into the state for sale without the consent of the brand owner or authorized agent. This section does not limit the provisions of section 340A.307.

**History:** 1985 c 305 art 5 s 11

**340A.312 JOINT PURCHASES; VOLUME PRICES.**

Subdivision 1. **Joint purchases.** The joint purchase by two or more licensed retailers of up to 300, 1.75 liter or smaller, bottles of distilled spirits or wine for resale to the public is lawful.



Subd. 2. **Volume prices.** A variable volume price offered by a wholesaler to a licensed retailer on sales of distilled spirits or wine may not be for a quantity of more than 300 one-liter or smaller bottles.

**History:** 1985 c 305 art 5 s 12

### 340A.313 PRICE FILING.

Subdivision 1. **Filing.** A distilled spirits or wine brand owner or wholesaler may not sell, offer for sale, or solicit orders for distilled spirits or wine unless a schedule of wholesale prices, including volume discounts, is filed with the commissioner on a form prescribed by the commissioner. No sale may be made at wholesale which is not in accordance with filed prices. A filing must be made by the first day of each month and is effective for the remainder of the month, except that any filed price may be amended within five days of its filing.

Subd. 2. **Inspection.** The commissioner shall maintain price filings in a manner so as to make them easily accessible to the public. The commissioner shall provide copies of the filings to any person requesting them, and may charge a reasonable fee for copies.

**History:** 1985 c 305 art 5 s 13

### 340A.314 SUGGESTED RETAIL PRICES.

No wholesaler or other person may communicate in any manner to an off-sale licensee a suggested retail price for the sale of intoxicating liquor.

**History:** 1985 c 305 art 5 s 14

### 340A.315 FARM WINERY LICENSE.

Subdivision 1. **Licenses.** The commissioner 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 may be issued and renewed for an annual fee of \$25, which is in lieu of all other license fees required by this chapter.

Subd. 2. **Sales.** A license authorizes 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 a calendar year, glassware, wine literature and accessories, cheese and cheese spreads, 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 12:00 noon and 12:00 midnight. Labels for each type or brand produced must be registered with the commissioner, without fee prior to sale.

Subd. 3. **Applicability.** Except as otherwise specified in this section, all provisions of this chapter govern the production, sale, possession, and consumption of table or sparkling wines produced by a farm winery.

Subd. 4. **Minnesota products.** 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. If the commissioner, after consultation with the commissioner of agriculture, determines this to be true, the farm winery may use imported products and shall continue to be governed by the provisions of this section. The affidavit is effective for a period of one year, after which time the farm winery must use the required amount of Minnesota products as provided by subdivision 1 unless the farm winery holder files a new affidavit with the commissioner.

Subd. 5. **Exemption.** In the case of a newly established farm winery, the commissioner may grant an exemption from the requirement for using Minnesota grown grapes for the period of time required to establish a suitable crop.

**History:** 1985 c 12 s 1; 1985 c 134 s 1; 1985 c 305 art 5 s 15; 1Sp1985 c 16 art 2 s 3 subd 1

**NOTE:** Subdivision 5, formerly section 340.435, subdivision 6, is repealed effective August 1, 1989. See Laws 1985, chapter 12, section 2.

**340A.316 SACRAMENTAL WINE.**

The commissioner may issue licenses for the importation and sale of wine exclusively for sacramental purposes. The holder of a sacramental wine license may sell wine only to a rabbi, priest, or minister of a church, or other established religious organization, or individual members of a religious organization who conduct ceremonies in their homes, if the purchaser certifies in writing that the wine will be used exclusively for sacramental purposes in religious ceremonies. The annual fee for a sacramental wine license is \$25. Each licensee must also post a \$1,000 penal bond in favor of the state, conditioned upon compliance with this section.

A rabbi, priest, or minister of a church or other established religious organization may import wine exclusively for sacramental purposes without a license.

*History: 1985 c 305 art 5 s 16*

**340A.317 LICENSING OF BROKERS.**

Subdivision 1. **Definition.** "Broker" means a person who represents a distillery, winery, or importer, and is not an employee of the distillery, winery, or importer.

Subd. 2. **License required.** All brokers and their employees must obtain a license from the commissioner. The annual license fee for a broker is \$300, for an employee of a broker the license fee is \$12. An application for a broker's license must be accompanied by a written statement from the distillery, winery, or importer the applicant proposes to represent verifying the applicant's contractual arrangement, and must contain a statement that the distillery, winery, or importer is responsible for the actions of the broker. The license shall be issued for one year. The broker, or employee of the broker may promote a vendor's product and may call upon licensed retailers to insure product identification, give advance notice of new products or product changes, and share other pertinent market information. The commissioner may revoke or suspend for up to 60 days a broker's license or the license of an employee of a broker if the broker or employee has violated any provision of this chapter, or a rule of the commissioner relating to alcoholic beverages. The commissioner may suspend for up to 60 days, the importation license of a distillery or winery on a finding by the commissioner that its broker or employee of its broker has violated any provision of this chapter, or rule of the commissioner relating to alcoholic beverages.

Subd. 3. **Reports.** A distillery, winery, or broker must furnish within 60 days after the end of each month a report to the commissioner specifying for that month the type, quantity, date, and licensed retailers who received samples from the distillery, winery, or broker.

*History: 1985 c 308 s 3*

**340A.318 CREDIT EXTENSIONS RESTRICTED.**

Subdivision 1. **Restriction.** Except as provided in this section, no retail licensee may accept or receive credit, other than merchandising credit in the ordinary course of business for a period not to exceed 30 days, from a distiller, manufacturer, or wholesaler of distilled spirits or wine, or agent or employee thereof. No distiller, manufacturer or wholesaler may extend the prohibited credit to a retail licensee. No retail licensee delinquent beyond the 30-day period shall solicit, accept or receive credit or purchase or acquire distilled spirits or wine directly or indirectly, and no distiller, manufacturer or wholesaler shall knowingly grant or extend credit nor sell, furnish or supply distilled spirits or wine to a retail licensee who has been posted delinquent under subdivision 3. No right of action shall exist for the collection of any claim based upon credit extended contrary to the provisions of this section.

Subd. 2. **Reporting.** Every distiller, manufacturer or wholesaler selling to retailers shall submit to the commissioner in triplicate not later than Thursday of each calendar week a verified list of the names and addresses of each retail licensee purchasing distilled spirits or wine from that distiller, manufacturer or wholesaler who, on the first day of that calendar week, was delinquent beyond the 30-day period, or a verified

statement that no delinquencies exist which are required to be reported. If a retail licensee previously reported as delinquent cures the delinquency by payment, the name and address of that licensee shall be submitted in triplicate to the commissioner not later than the close of the second full business day following the day the delinquency was cured.

**Subd. 3. Posting; notice.** Verified list or statements required by subdivision 2 shall be posted by the commissioner in offices of the department in places available for public inspection and mailed to each licensed wholesaler not later than the day following receipt. Documents so posted and mailed shall constitute notice to every distiller, manufacturer or wholesaler of the information posted. Actual notice, however received, also constitutes notice.

**Subd. 4. Miscellaneous provisions.** The 30-day merchandising period allowed by this section shall commence with the day immediately following the date of invoice and shall include all successive days, including Sundays and holidays, to and including the 30th successive day. In addition to other legal methods, payment by check during the period for which merchandising credit may be extended shall be considered payment. All checks received in payment for distilled spirits or wine shall be deposited promptly for collection. A postdated check or a check dishonored on presentation for payment does not constitute payment. A retail licensee shall not be deemed delinquent for any alleged sale in any instance where there exists a bona fide dispute between the licensee and the distiller, manufacturer or wholesaler as to the amount owing as a result of the alleged sale. A delinquent retail licensee who engages in the retail liquor business at two or more locations shall be deemed to be delinquent with respect to each location.

**Subd. 5. License suspension or revocation.** The license of any retail licensee, distiller, manufacturer or wholesaler violating any provision of this section shall be subject to suspension or revocation in the manner provided by this chapter.

**History:** 1986 c 465 art 2 s 7

## RETAIL LICENSES

### 340A.401 LICENSE REQUIRED.

Except as provided in this chapter, no person may directly or indirectly, on any pretence or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license.

**History:** 1985 c 305 art 6 s 1

### 340A.402 PERSONS ELIGIBLE.

No retail license may be issued to:

- (1) a person not a citizen of the United States or a resident alien;
- (2) a person under 21 years of age;
- (3) a person who within five years of the license application has been convicted of a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of intoxicating or nonintoxicating malt liquors;
- (4) a person who has had an intoxicating liquor or nonintoxicating liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; or
- (5) a person not of good moral character and repute.

**History:** 1985 c 305 art 6 s 2; 1986 c 330 s 5

**340A.403 NONINTOXICATING MALT LIQUOR LICENSES.**

Subdivision 1. **Issuance by county or city.** The governing body of a city or county may issue off-sale or on-sale licenses for the sale of nonintoxicating malt liquor within their respective jurisdictions.

Subd. 2. **Temporary licenses.** (a) A club or charitable, religious, or nonprofit organization may be issued a temporary on-sale license for the sale of nonintoxicating malt liquor.

(b) The temporary license may authorize the sale of nonintoxicating malt liquor in any school or school buildings.

(c) Temporary licenses are subject to the terms set by the issuing county or city.

Subd. 3. **Exemption.** (a) Any person licensed to sell intoxicating liquor at on-sale shall not be required to obtain an on-sale license under this section, and may sell nonintoxicating malt beverages at on-sale without further license.

(b) Any person licensed to sell intoxicating liquor at off-sale shall not be required to obtain an off-sale license under this section, and may sell nonintoxicating malt beverages at off-sale without further license.

**History:** 1985 c 117 s 1,2; 1985 c 305 art 6 s 3; 1Sp1985 c 16 art 2 s 3 subd 1

**340A.404 INTOXICATING LIQUOR; ON-SALE LICENSES.**

Subdivision 1. **Cities.** A city may issue an on-sale intoxicating liquor license to the following establishments located within its jurisdiction:

- (1) hotels;
- (2) restaurants;
- (3) clubs or congressionally chartered veterans organizations provided that the organization has been in existence for at least three years and liquor sales will only be to members and bona fide guests;
- (4) sports facilities located on land owned by the metropolitan sports commission; and
- (5) exclusive liquor stores.

Subd. 2. **Special provision; city of Minneapolis.** The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theatre and the Cricket Theatre notwithstanding the limitations of law, or local ordinance, or charter provision relating to zoning or school or church distances. The licenses authorize sales on all days of the week to holders of tickets for dramatic performances presented by the theatres and to members of the nonprofit corporations holding the licenses and to their guests.

Subd. 3. **Notice to the commissioner.** A city shall within ten days of the issuance of a license under subdivision 1, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The city shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

Subd. 4. **Special provisions; sports, conventions, or cultural facilities.** The governing body of a municipality may authorize a holder of a retail 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, convention, or cultural facility owned by the municipality or instrumentality thereof having independent policymaking and appropriating authority and located within the municipality. The licensee must be engaged to dispense intoxicating liquor at 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 may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises.

Subd. 5. **Wine licenses.** A municipality may issue an on-sale wine license with the approval of the commissioner to a restaurant having facilities for seating at least 25 guests at one time. A wine license permits the sale of wine of up to 14 percent alcohol

by volume for consumption with the sale of food. A wine license authorizes the sale of wine on all days of the week unless the issuing authority restricts the license's authorization to the sale of wine on all days except Sundays.

**Subd. 6. Counties.** A county board may issue an on-sale intoxicating liquor license within the area of the county that is unorganized or unincorporated, to a restaurant or club with the approval of the commissioner.

**Subd. 7. Airports commission.** On-sale licenses may be issued by the metropolitan airports commission for the sale of intoxicating liquor in major airports owned by the metropolitan airports commission and used as terminals for regularly scheduled air passenger service.

**Subd. 8. Lake Superior tour boats.** (a) The commissioner may issue an on-sale intoxicating liquor license to a person regularly engaged, on an annual or seasonal basis, in the business of offering tours by boat on Lake Superior and adjacent bays. The license shall authorize the sale of intoxicating liquor for consumption on the boat while underway or attached to a dock or other mooring. No license may be issued unless each boat used in the tour business regularly sells meals in the place where intoxicating liquor is sold.

(b) All sales of intoxicating liquor made on a boat while it is attached to a dock or other mooring are subject to any restrictions on the sale of liquor prescribed by the governing body of the city where the boat is attached, or of a county when it is attached outside a city. A governing body may prohibit liquor sales within its jurisdiction but may not require an additional license, or require a fee or occupation tax, for the sales.

(c) If a boat is moored for a period of at least three consecutive months, the city may require the boat to obtain an on-sale intoxicating liquor license from the city, and the fee charged for the license must not exceed one-half the fee charged for a comparable annual on-sale intoxicating liquor license.

**Subd. 9. Military bases and installations.** The commissioner may issue an on-sale license for the sale of intoxicating liquor within the boundaries of a military base or installation under the jurisdiction of the adjutant general with the approval of the adjutant general. No municipal or county license is required for the sale of intoxicating liquor under this subdivision.

**Subd. 10. Temporary on-sale licenses.** The governing body of a statutory or home rule city may issue to a club or charitable, religious, or other nonprofit organization in existence for at least three years a temporary license for the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not more than three consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by a municipality. The licenses are subject to the terms, including a license fee, imposed by the issuing city. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except section 340A.409 and those laws and ordinances which by their nature are not applicable. Licenses under this subdivision are not valid unless first approved by the commissioner of public safety.

**History:** 1985 c 201 s 3; 1985 c 305 art 6 s 4; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 37

### 340A.405 INTOXICATING LIQUOR; OFF-SALE LICENSES.

**Subdivision 1. Cities.** A city may issue with the approval of the commissioner, an off-sale intoxicating liquor license to an exclusive liquor store or to a drugstore. Cities of the first class may also issue an off-sale license to a general food store.

**Subd. 2. Counties.** (a) A county may issue an off-sale intoxicating license with the approval of the commissioner to exclusive liquor stores located within unorganized territory of the county.

(b) A county board of any county except Ramsey county containing a town exercising powers under section 368.01, subdivision 1, may issue an off-sale license to an exclusive liquor store within that town with the approval of the commissioner. No license may be issued under this paragraph unless the town board adopts a resolution supporting the issuance of the license.

(c) A county board of any county except Ramsey county containing a town that may not exercise powers under section 368.01, subdivision 1, may issue a combination off-sale and on-sale license to restaurants within that town with the approval of the commissioner pursuant to section 340A.404, subdivision 6. No license may be issued under this paragraph unless the town board adopts a resolution supporting the issuance of the license.

(d) No license may be issued under this subdivision unless a public hearing is held on the issuance of the license. Notice must be given to all interested parties and to any city located within three miles of the premises proposed to be licensed. At the hearing the county board shall consider testimony and exhibits presented by interested parties and may base its decision to issue or deny a license upon the nature of the business to be conducted and its impact upon any municipality, the character and reputation of the applicant, and the propriety of the location. Any hearing held under this paragraph is not subject to chapter 14.

(e) A county board may not issue a license under this subdivision to a person for an establishment located less than three miles by the most direct route from the boundary of any statutory or home rule city except cities of the first class or within Pine or Kanabec counties within three miles of a statutory or home rule city with a municipal liquor store.

(f) The town board may impose an additional license fee in an amount not to exceed 20 percent of the county license fee.

(g) Notwithstanding any provision of this subdivision or Laws 1973, chapter 566, as amended by Laws 1974, chapter 200, a county board may transfer or renew a license that was issued by a town board under Minnesota Statutes 1984, section 340.11, subdivision 10b prior to January 1, 1985.

**Subd. 3. Towns.** The town board of a town within Ramsey county exercising powers under section 368.01, subdivision 1, within Ramsey county may issue an off-sale intoxicating liquor license with the approval of the commissioner to an exclusive liquor store located within the town.

**History:** 1985 c 263 s 1,2; 1985 c 305 art 6 s 5; 1Sp1985 c 16 art 2 s 3 subd 1

### **340A.405 LICENSES IN INDIAN COUNTRY.**

Notwithstanding any law to the contrary, on-sale or off-sale licenses for the sale of intoxicating liquor or nonintoxicating malt liquor issued by the governing body of an Indian tribe in accordance with United States Code, title 18, section 1161, to an Indian tribal member or Indian tribal entity for an establishment located within Indian country as defined under United States Code, title 18, section 1154, is valid with the approval of the commissioner. The commissioner shall approve the license if the establishment has complied with sections 340A.402; 340A.409; 340A.410, subdivisions 4, 5, and 7; 340A.412, subdivisions 1 to 7, 9, and 10; 340A.413; 340A.501; 340A.502; 340A.503; 340A.504; and 340A.506. An establishment issued a license under this subdivision is not required to obtain a license from any municipality, county, or town.

**History:** 1985 c 308 s 2; 1Sp1985 c 16 art 2 s 3 subd 1

### **340A.406 INTOXICATING LIQUOR; COMBINATION LICENSES.**

A city of the fourth class or a statutory city of 10,000 or fewer population may issue an off-sale and on-sale intoxicating liquor license to the same licensee or, in lieu of issuing on-sale and off-sale licenses separately to a licensee, may issue a combination on-sale and off-sale license. A city may continue to issue licenses under this subdivision when the population of the city exceeds 10,000 population.

**History:** 1985 c 305 art 6 s 6

**340A.407 COMMON CARRIERS.**

The commissioner may issue an on-sale license to a person certificated by either the state 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 or nonintoxicating malt liquor in a place where meals are sold. A license issued under this subdivision only authorizes the sale of intoxicating or nonintoxicating malt liquor to a bona fide passenger who is actually being transported in interstate or intrastate commerce.

**History:** 1985 c 305 art 6 s 7

**340A.408 RETAIL LICENSE FEES.**

**Subdivision 1. Nonintoxicating malt liquor.** (a) The license fee for an on-sale and off-sale nonintoxicating malt liquor license is the fee set by the county or city issuing the license.

(b) One-half of the license fee received by a county for a retail license to sell nonintoxicating malt liquor within any town in the county shall be paid to the town board where the business is located.

**Subd. 2. Intoxicating liquor; on-sale.** (a) The license fee for a retail on-sale intoxicating liquor license is the fee set by the city or county issuing the license subject to the limitations imposed under this subdivision.

(b) The annual license fee for an on-sale intoxicating liquor license issued by a city to a club must be no greater than:

- (1) \$300 for a club with under 200 members;
- (2) \$500 for a club with between 201 and 500 members;
- (3) \$650 for a club with between 501 and 1,000 members;
- (4) \$800 for a club with between 1,001 and 2,000 members;
- (5) \$1,000 for a club with between 2,001 and 4,000 members;
- (6) \$2,000 for a club with between 4,001 and 6,000 members; or
- (7) \$3,000 for a club with over 6,000 members.

(c) The license fee for the issuance of a wine license may not exceed one-half of the license fee charged for an on-sale intoxicating liquor license, or \$2,000, whichever is less.

(d) The town board of a town in which an on-sale establishment has been licensed by a county may impose an additional license fee on each such establishment in an amount not to exceed 20 percent of the county license fee.

**Subd. 3. Intoxicating liquor; off-sale.** (a) The annual license fee for an off-sale intoxicating liquor license issued by a city, when combined with any occupation tax imposed by the city, may not exceed the following limits:

- (1) \$1,000 for cities of the first class;
- (2) \$200 for cities over 10,000 other than cities of the first class;
- (3) \$150 for cities of between 5,000 and 10,000 population; and
- (4) \$100 for cities with less than 5,000 population.

(b) The annual license fee for an off-sale intoxicating liquor license issued by a county or town shall not exceed \$500.

**Subd. 4. Lake superior tour boats; common carriers.** (a) The annual license fee for licensing of Lake Superior tour boats under section 340A.404, subdivision 8, shall be \$1,000.

(b) The annual license fee for common carriers licensed under section 340A.407 is:

- (1) \$25 for nonintoxicating malt liquor, and \$2 for a duplicate license; and
- (2) \$100 for intoxicating liquor, and \$10 for a duplicate license.

**Subd. 5. Refunds.** A pro rata share of an annual license fee for a retail license

to sell intoxicating or nonintoxicating malt liquor, either on-sale or off-sale, may be refunded to the licensee or to the licensee's estate if:

- (1) the business ceases to operate because of destruction or damage;
- (2) the licensee dies;
- (3) the business ceases to be lawful for a reason other than a license revocation;

or

- (4) the licensee ceases to carry on the licensed business under the license.

**History:** 1985 c 305 art 6 s 8

#### **340A.409 LIABILITY INSURANCE.**

**Subdivision 1. Insurance required.** No retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by section 340A.801. The issuing authority must submit to the commissioner the applicant's proof of financial responsibility. This subdivision does not prohibit a local unit of government from requiring higher insurance or bond coverages, or a larger deposit of cash or securities. The minimum requirement for proof of financial responsibility may be given by filing:

(1) a certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence;

(2) a bond of a surety company with minimum coverages as provided in clause (1);

or

(3) a certificate of the state treasurer that the licensee has deposited with the state treasurer \$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 an insurer from providing the coverage required by this subdivision in combination with other insurance coverage.

An annual aggregate policy limit for dram shop insurance of not less than \$300,000 per policy year may be included in the policy provisions.

A liability insurance policy required by this section must provide that it may not be canceled for any cause by either the insured or the insurer unless the canceling party has first given ten days' notice in writing to the issuing authority of intent to cancel the policy.

**Subd. 2. Market assistance.** The commissioner of commerce shall advise licensees and municipalities subject to the financial responsibility requirements of subdivision 1 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 that is representative of insurance carriers and producers, liquor vendors, and the public. No less than one-half of the committee members shall represent casualty insurers and surplus lines agents or brokers. The commissioner of commerce or the commissioner's designated representative shall serve as an ex officio member of the committee. The committee shall review and act upon all properly executed applications. 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 3.

**Subd. 3. Assigned risk plan.** (a) The purpose of the assigned risk plan is to provide coverage required by subdivision 1 to persons rejected under this subdivision.

(b) An insurer who offers liquor liability insurance that refuses to write the



coverage required by subdivision 1 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 at the time of application for coverage to the assigned risk plan and the market assistance program.

A written notice of refusal must be provided to any applicant who has requested only liquor liability insurance if the insurer chooses to only offer liquor liability insurance in combination with other types of insurance.

A written notice of refusal must be provided by an insurer to any applicant who receives an offer of coverage from that insurer that is in excess of the rate charged by the assigned risk plan for similar coverage and risk. A notice is not required if the rate for the coverage offered is less than 20 percent in excess of the assigned risk plan rates, provided that the offered rate is the rate that the insurer has filed with the commissioner of commerce if the insurer is required to file its rates with the commissioner. If the insurer is not required to file its rates with the commissioner, the offered rate must be the rate generally charged by the insurer for similar coverage and risk.

A notice of refusal is not required to be filed if there is not an insurer offering liquor liability insurance in the state.

To be eligible to participate in the assigned risk plan an applicant must apply for coverage through the market assistance program. Application to the market assistance program must be made no later than the time of application to the assigned risk plan. If the market assistance program is unable to secure coverage then coverage may be extended by the assigned risk plan.

(c) 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 must 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 must 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 are an obligation of the assigned risk plan.

(d) The commissioner of commerce may assess all insurers licensed under section 60A.06, subdivision 1, clause (13), an amount sufficient to fully fund the obligations of the assigned risk plan if the commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations. The assessment of each insurer must 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 multiperil, 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.

(e) Policies and contracts of coverage issued under this subdivision must contain the usual and customary provisions of liability insurance policies, and must contain the minimum coverage required by subdivision 1 or the local governing unit.

(f) Assigned risk policies and contracts of coverage are subject to premium tax pursuant to section 60A.15.

(g) Insureds served by the assigned risk plan must be charged premiums based upon a rating plan approved by the commissioner of commerce. Assigned risk premiums may 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.

(h) The rating plan may be amended by rule pursuant to chapter 14 or by the following expedited procedures:

(1) Any person may, by written petition served upon the commissioner, request that a hearing be held to amend the rating plan.

(2) The commissioner shall forward a copy of the petition to the chief administrative law judge within three business days of its receipt. The chief administrative law

judge shall, within three business days of receipt of the copy of the petition or a request for a hearing by the commissioner, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and the administrative law judge assigned to hear the matter. The hearing date must be set no less than 60 days nor more than 90 days from the date of receipt of the petition by the commissioner.

(3) The commissioner of commerce shall publish a notice of the hearing in the State Register at least 30 days before the hearing date. The notice should be similar to that used for rulemaking under the administrative procedure act. Approval by the administrative law judge of the notice prior to publication is not required.

(4) The hearing and all matters taking place after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45-day requirement.

(5) The commissioner shall render a decision within ten business days of the receipt of the administrative law judge's report.

(6) If all parties to the proceeding agree, any of the previous requirements may be waived or modified.

(7) A petition for a hearing to amend the rating plan received by the commissioner within 180 days of the date of the commissioner's decision in a prior proceeding to amend the rating plan is invalid and requires no action.

(i) A liquor vendor shall be denied or terminated from coverage through the assigned risk plan if the liquor vendor disregards safety standards, laws, rules, or ordinances pertaining to the offer, sale, or other distribution of liquor.

The commissioner may by rule establish other conditions for denial or termination from coverage through the assigned risk plan.

(j) The commissioner of commerce shall adopt rules needed to implement this subdivision. The rules may include:

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

(2) 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

(3) applicable rating plans and rating standards.

**Subd. 3a. Notification by insurer of status of claim.** Upon the request of the insured, an insurer who is providing coverage required by subdivision 1 shall inform the insured of the status of any claims made under the policy. The information must include:

(1) the employees of the insured that may be involved and the nature of their involvement;

(2) any amount the insurer is holding in reserve for payment of a claim or has paid in the disposition of the claim; and

(3) any amount paid in the defense of the claim.

This subdivision does not require disclosure of otherwise nondiscoverable information to an adverse party in litigation.

**Subd. 4. Insurance not required.** Subdivision 1 does not apply to licensees who by affidavit establish that:

(1) they are on-sale nonintoxicating malt liquor licensees with sales of less than \$10,000 of nonintoxicating malt liquor for the preceding year;

(2) they are off-sale nonintoxicating malt liquor licensees with sales of less than \$20,000 of nonintoxicating malt liquor for the preceding year;

(3) they are holders of on-sale wine licenses with sales of less than \$10,000 for wine for the preceding year; or

(4) they are holders of temporary wine licenses issued under law.

**History:** 1985 c 200 s 2; 1985 c 305 art 6 s 9; 1985 c 309 s 7-9; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 38

#### **340A.410 LICENSE RESTRICTIONS; GENERAL.**

**Subdivision 1. Counties; town consent.** A county may not issue a retail license to sell any alcoholic beverage within an organized town unless the governing body of the town has consented to the issuance of the license.

**Subd. 2. Counties; recommendation and review of applicants.** (1) No county may issue or renew a retail license to sell any alcoholic beverage until the county board has received a written recommendation from the sheriff and county attorney stating that to the best of their knowledge that the applicant is eligible to be licensed under section 340A.402. A copy of the statements must be given to the town board if a town's consent is required issuance of the license under subdivision 3.

(2) The county board shall consider the recommendations of the sheriff and county attorney, the character and reputation of the applicant, and the nature and location of the business prior to issuance of any license.

**Subd. 3. License extension; death of licensee.** In the case of the death of a retail licensee to sell alcoholic beverages, the personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee.

**Subd. 4. License posting.** A retail license to sell alcoholic beverages must be posted in a conspicuous place in the premises for which it is used.

**Subd. 5. Gambling prohibited.** (a) No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section 349.30, or permit gambling therein except as provided in this subdivision.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized under chapter 349.

**Subd. 6. Racial discrimination; clubs.** No retail license to sell alcoholic beverages may be issued or renewed by a municipality or county to a club which discriminates against members or applicants for membership or guests of members on the basis of race.

**Subd. 7. License limited to space specified.** A retail license to sell any alcoholic beverage is only effective for the compact and contiguous space specified in the approved license application.

**Subd. 8. Copy of summons.** Every application for the issuance or renewal of intoxicating or nonintoxicating liquor licenses must include a copy of each summons received by the applicant under section 340A.802 during the preceding year.

**History:** 1985 c 305 art 6 s 10; 1Sp1986 c 3 art 1 s 39

#### **340A.411 LICENSE RESTRICTIONS; NONINTOXICATING MALT LIQUOR LICENSES.**

**Subdivision 1. On-sale licenses.** On-sale nonintoxicating liquor licenses may only be issued to drugstores, restaurants, hotels, clubs, and establishments used exclusively for the sale of nonintoxicating malt liquor with the incidental sale of tobacco and soft drinks.

**Subd. 2. License duration.** All retail nonintoxicating malt liquor licenses must be issued for one year, except that for the purpose of coordinating the time of expiration of licenses in general, licenses may be issued for a shorter time, in which case a pro rata license fee must be charged.

**History:** 1985 c 305 art 6 s 11

**340A.412 LICENSE RESTRICTIONS; INTOXICATING LIQUOR LICENSES.**

Subdivision 1. **Bond required.** A local unit of government shall not grant a retail license to sell intoxicating liquor until the applicant has filed a bond with corporate surety, or cash, or United States government bonds in the amount of not less than \$3,000 nor more than \$5,000 for on-sale licenses, and not less than \$1,000 nor more than \$3,000 for off-sale licenses. A common carrier who applies for a license to sell intoxicating liquor under section 340A.407, must file with the commissioner a bond with corporate surety, or cash, or government bonds in the sum of \$1,000. A bond filed under this subdivision must be conditional on the licensee obeying all laws governing the business and paying all taxes, fees, penalties, and other charges, and must provide that the bond is forfeited to the unit of government issuing the license on a violation of law. The commissioner must approve all bonds filed by applicants for an off-sale license.

Subd. 2. **Investigation of on-sale licenses.** (a) The city or county having jurisdiction over on-sale licenses to sell intoxicating liquor shall on initial application for an on-sale license or on application for a transfer of an existing license conduct a preliminary background and financial investigation of the applicant. The application must be in the form prescribed by the bureau of criminal apprehension and with any additional information as the governing body of the city or county having jurisdiction over the license requires. If the governing body of the city or county having jurisdiction determines or if the bureau of criminal apprehension on its own initiative determines that a comprehensive background and investigation of the applicant is necessary, the governing body may conduct the investigation itself or contract with the bureau of criminal apprehension 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 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.

(b) No license may 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.

Subd. 3. **Limitations on issuance of licenses to one person or place.** (a) No more than one off-sale intoxicating liquor license may be directly or indirectly issued to any one person or for any one place in each city or county.

(b) For the purpose of this subdivision, the term "interest":

(1) includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, and a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail license; and

(2) does not include loans; rental agreements; 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, supplies to the 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.

(c) In determining whether an "interest" exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this subdivision must be considered.

Subd. 4. **Licenses prohibited in certain areas.** (a) No license to sell intoxicating liquor may be issued within the following areas:

(1) where restricted against commercial use through zoning ordinances and other proceedings or legal processes regularly had for that purpose, except licenses may be

issued to restaurants in areas which were restricted against commercial uses after the establishment of the restaurant;

(2) within the capitol or on the capitol grounds, except as provided under Laws 1983, chapter 259, section 9;

(3) on the state fairgrounds or at any place in a city of the first class within one-half mile of the fairgrounds, except as otherwise provided by charter;

(4) on the campus of the college of agriculture of the University of Minnesota or at any place in a city of the first class within one-half mile of the campus, provided that a city may issue one on-sale wine license in this area that is not included in the area described in clause (3), except as provided by charter;

(5) within 1,000 feet of a state hospital, training school, reformatory, prison, or other institution under the supervision or control, in whole or in part, of the commissioner of human services or the commissioner of corrections;

(6) in a town or municipality in which a majority of votes at the last election at which the question of license was voted upon were not in favor of license under section 340A.416, or within one-half mile of any such town or municipality, except that intoxicating liquor manufactured within this radius may be sold to be consumed outside it;

(7) at any place on the east side of the Mississippi River within one-tenth of a 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;

(8) within 1,500 feet of a state university, except only 1,200 feet from Winona and Southwest State University, provided that within 1,500 feet of St. Cloud State University one on-sale wine and two off-sale intoxicating liquor licenses may be issued, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment except at Mankato State University the distance is measured from the front door of the student union of the Highland campus; and

(9) within 1,500 feet of any public school that is not within a city.

(b) The restrictions of this subdivision do not apply to a manufacturer or wholesaler of intoxicating liquor or to a drugstore or to a person who had a license originally issued lawfully prior to July 1, 1967.

**Subd. 5. Licenses in connection with premises of another.** An intoxicating liquor license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this chapter. This subdivision does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a noncitizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this chapter.

**Subd. 6. Off-sale licenses where nonintoxicating malt liquor is sold.** An off-sale intoxicating liquor license may not be issued to a place where nonintoxicating malt liquor is sold for consumption on the premises. This subdivision does not apply to those places where both an on-sale and off-sale license or a combination license have been issued under section 340A.406.

**Subd. 7. Drugstores.** No intoxicating liquor license may be issued to a person operating a drugstore unless the person has operated it for at least two years or has purchased a drugstore that has been in continuous operation for two or more years.

**Subd. 8. Expiration date.** All intoxicating liquor licenses issued by a county or a city, other than cities of the first class, must expire on the same date.

**Subd. 9. License transfer.** A license may be transferred with the consent of the issuing authority, provided that a license issued to a location at a racetrack licensed under chapter 240 may not be transferred. Where a license is held by a corporation, a change in ownership of ten percent or more of the stock of the corporation must be reported in writing to the authority who issued the license within ten days of the transfer.

Subd. 10. **Employment of minors.** No person under 18 years of age may be employed in a place where intoxicating liquor is sold for consumption on the premises, except persons under 18 years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that is licensed to sell intoxicating liquor and may be employed as waiters or waitresses at a restaurant, hotel, or motel where only wine is sold, provided that the person under the age of 18 may not serve or sell any wine.

Subd. 11. **Reissuance of licenses in certain cities.** A city having territory in which the sale of intoxicating liquor has been prohibited by law or charter and in which real property taken for a public purpose by negotiation or eminent domain proceedings was, immediately prior to the taking, actually and lawfully used for the sale of intoxicating liquor, may reissue the license previously issued to the location at any otherwise lawful location in the city. A change of location due to taking after July 1, 1972, must have been accomplished by July 1, 1976, but these licenses may be renewed, reissued, transferred, or relocated after that date.

**History:** 1985 c 305 art 6 s 12; 1985 c 309 s 10; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 40,41

### 340A.413 RESTRICTIONS ON THE NUMBER OF INTOXICATING LIQUOR LICENSES THAT MAY BE ISSUED.

Subdivision 1. **On-sale licenses.** No on-sale intoxicating liquor license may be issued in any city except as provided in this section in excess of the following limits:

(1) in cities of the first class, one license for every 1,500 population, up to 200 licenses;

(2) in cities of the second class, not more than 18 licenses plus one for every 2,500 population over 45,000;

(3) in cities of the third class, not more than 12 licenses;

(4) in cities of the fourth class, not more than seven licenses;

(5) in statutory cities of 5,000 to 10,000 population, not more than six licenses;

(6) in statutory cities of 2,500 to 5,000 population, not more than five licenses;

(7) in statutory cities of 500 to 2,500 population, not more than four licenses; and

(8) in statutory cities under 500 population, not more than three licenses.

Subd. 2. **Additional on-sale licenses permitted for cities in St. Louis county.** For cities in St. Louis county no on-sale liquor license may be issued in excess of the following limits, without the approval of the commissioner:

(1) in cities of the third class, not more than 15 licenses;

(2) in cities of the fourth class, not more than nine licenses; and

(3) in statutory cities of 2,500 to 5,000 population, not more than six licenses.

Subd. 3. **Referendum for additional on-sale licenses.** (a) The governing body of a city may issue on-sale intoxicating liquor licenses over the number permitted under subdivision 1 when authorized by the voters of the city at a general or special election.

(b) The governing body may direct that either of the following questions be placed on the ballot:

(1) "Shall the city council be allowed to issue 'on-sale' licenses for the sale of intoxicating liquor at retail in excess of the number permitted by law?"

Yes .....

No ....."

(2) "Shall the city council be allowed to issue (a number to be determined by the governing body) 'on-sale' licenses for the sale of intoxicating liquor at retail in excess of the number now permitted by law?"

Yes .....

No ....."

(c) If a majority of voters voting on the question in clause (1) vote yes, the governing body may issue an unlimited number of on-sale licenses. If a majority of

voters voting on the question in clause (2) vote yes, the governing body may issue additional on-sale licenses in the number stated in the question.

**Subd. 4. Exclusions from license limits.** On-sale intoxicating liquor licenses may be issued to the following entities by a city, in addition to the number authorized by this section:

- (1) clubs, or congressionally chartered veterans organizations;
- (2) restaurants located at a racetrack licensed under chapter 240;
- (3) restaurants that are issued licenses to sell wine under section 340A.404, subdivision 5;
- (4) Lake Superior tour boats that are issued licenses under section 340A.404, subdivision 8; and
- (5) theaters that are issued licenses under section 340A.404, subdivision 2.

**Subd. 5. Off-sale licenses.** No off-sale intoxicating liquor license may be issued in any city, except as provided in this section, in excess of the following limits:

- (1) in cities of the first class, not more than one off-sale license for each 5,000 population; and
- (2) in all other cities the limit shall be determined by the governing body of the city.

**Subd. 6. Area that has been annexed or consolidated.** A license validly issued within the number prescribed in this section is not rendered invalid or illegal by reason of the consolidation or annexation of territory to a city and may continue to remain in effect and be renewed, except that the limitations as to ownership under section 340A.412, subdivision 2.

**History:** 1985 c 305 art 6 s 13

#### **340A.414 LICENSING OF BOTTLE CLUBS.**

**Subdivision 1. Permit required.** No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of intoxicating liquor or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the commissioner.

**Subd. 2. Eligibility for permit.** (a) The commissioner may issue a permit under this section only to:

- (1) an applicant who has not, within five years prior to the application, been convicted of a felony or of violating any provision of this chapter or rule adopted under this chapter;
- (2) a restaurant;
- (3) a hotel;
- (4) an establishment licensed for the sale of nonintoxicating malt liquor;
- (5) a resort as defined in section 157.01; and
- (6) a club as defined in section 340A.101, subdivision 7, or an unincorporated club otherwise meeting that definition.

(b) The commissioner may not issue a permit to a club holding an on-sale intoxicating liquor license.

**Subd. 3. Only authorized to permit the consumption and display.** A permit issued under this section authorizes the establishment to permit the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.

**Subd. 4. Permit expiration.** All permits issued under this section expire on June 30 of each year.

**Subd. 5. Local consent required.** A permit issued under this section is not effective until approved by the governing body of the city or county where the establishment is located.

Subd. 6. **Permit fees.** The annual fee for issuance of a permit under this section is \$150. The governing body of a city or county where the establishment is located may impose an addition of fee of not more than \$300.

Subd. 7. **Inspection.** An establishment holding a permit under this section is open for inspection by the commissioner and the commissioner's representative and by peace officers, who may enter and inspect during reasonable hours. Intoxicating liquor sold, served, or displayed in violation of law may be seized and may be disposed of under section 297C.12.

Subd. 8. **Lockers.** A club issued a permit under this section may allow members to bring and keep a personal supply of intoxicating liquor in lockers on the club's premises. All bottles kept on the premises must have attached to it a label signed by the member. No person under 19 years of age may keep a supply of intoxicating liquor on club premises.

Subd. 9. **One-day city permits.** A city may issue a one-day permit for the consumption and display of intoxicating liquor under this section to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization. The permit must be approved by the commissioner and is valid only for the day indicated on the permit. The fee for the permit may not exceed \$25. A city may not issue more than ten permits under this section in any one year.

**History:** 1985 c 305 art 6 s 14; 1Sp1985 c 16 art 2 s 3 subd 1

### 340A.415 LICENSE REVOCATION OR SUSPENSION.

The authority issuing or approving any retail license or permit under this chapter shall either suspend for up to 60 days or revoke the license or permit or impose a civil fine not to exceed \$2,000 for each violation on a finding that the license or permit holder has failed to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages. No suspension or revocation takes effect until the license or permit holder has been afforded an opportunity for a hearing under sections 14.57 to 14.70 of the administrative procedure act.

**History:** 1985 c 248 s 70; 1985 c 305 art 6 s 15; 1985 c 309 s 11; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 42

### 340A.416 LOCAL OPTION ELECTION.

Subdivision 1. **Petition.** Upon receipt of a petition signed by 30 percent of the persons voting at the last city election or 200 registered voters residing in the city, whichever is less, a statutory city or home rule charter city of the fourth class shall place before the voters of the city the question of whether the city will issue intoxicating liquor licenses.

Subd. 2. **Ballot question.** The question of the referendum under this section must be on a separate ballot and must allow the voters to vote either "for license" or "against license."

Subd. 3. **Effect of election results.** If a majority of persons voting on the referendum question the vote "against license" the city may not issue intoxicating liquor licenses until the results of the referendum have been reversed at a subsequent election where the question has been submitted as provided in this section.

Subd. 4. **Certification to secretary of state.** The clerk or recorder must certify results of a referendum held under this section to the secretary of state within ten days of the election.

Subd. 5. **Challenge of election.** Where the results of a referendum under this section are challenged by any voter, the county attorney of the county where the election was held must appear in defense of the validity of the election.

**History:** 1985 c 305 art 6 s 16



## RETAIL SALES REGULATIONS

**340A.501 RESPONSIBILITY OF LICENSEE.**

Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverage by any employee authorized to sell alcoholic beverages in the establishment is the act of the licensee.

*History: 1985 c 305 art 7 s 1*

**340A.502 SALES TO OBVIOUSLY INTOXICATED PERSONS.**

No person may sell, give, furnish, or in any way procure for another alcoholic beverages for the use of an obviously intoxicated person.

*History: 1985 c 305 art 7 s 2*

**340A.503 PERSONS UNDER 21; ILLEGAL ACTS.**

Subdivision 1. **Consumption.** It is unlawful for any:

(1) retail intoxicating liquor or nonintoxicating liquor licensee or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to consume alcoholic beverages on the licensed premises; or

(2) person under the age of 21 years to consume any alcoholic beverages unless in the household of the person's parent or guardian and with the consent of the parent or guardian.

Subd. 2. **Purchasing.** It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age, except that a parent or guardian of a person under the age of 21 years may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian;

(2) under the age of 21 years to purchase or attempt to purchase any alcoholic beverage; or

(3) to induce a person under the age of 21 years to purchase or procure any alcoholic beverage.

Subd. 3. **Possession.** It is unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.

Subd. 4. **Entering licensed premises.** (a) It is unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.

(b) Notwithstanding section 340A.509, no ordinance enacted by a statutory or home rule charter city may prohibit a person 18, 19, or 20 years old from entering an establishment licensed under this chapter to:

(1) perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by section 340A.412, subdivision 10;

(2) consume meals; and

(3) attend social functions that are held in a portion of the establishment where liquor is not sold.

Subd. 5. **Misrepresentation of age.** It is unlawful for a person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages.

Subd. 6. **Proof of age.** Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid drivers license or Minnesota identification card, or in the case of a foreign national by a valid passport.

Subd. 7. **Record of violation.** If a person who is 18, 19, or 20 years old is convicted of a violation under this section, none of the records of the court, including legal records, shall be open to public inspection or their contents disclosed except by order of the court.

**History:** 1985 c 305 art 7 s 3; 1986 c 330 s 6; 1986 c 444

### 340A.504 HOURS AND DAYS OF SALE.

Subdivision 1. **Nonintoxicating malt liquor.** No sale of nonintoxicating malt liquor may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday, provided that an establishment located on land owned by the metropolitan sports commission may sell nonintoxicating malt liquor between 10:00 a.m. and 12:00 noon on a Sunday on which a sports or other event is scheduled to begin at that location on or before 1:00 p.m. of that day.

Subd. 2. **Intoxicating liquor; on-sale.** No sale of intoxicating liquor for consumption on the licensed premises may be made:

- (1) between 1:00 a.m. and 8:00 a.m. on the days of Tuesday through Saturday;
- (2) between 12:00 midnight and 8:00 a.m. on Mondays;
- (3) after 1:00 a.m. on Sundays, except as provided by subdivision 3;
- (4) between 8:00 p.m. on December 24 and 8:00 a.m. on December 25, except as provided by subdivision 3.

Subd. 3. **Intoxicating liquor; Sunday sales; on-sale.** (a) A restaurant, club, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon and 12:00 midnight on Sundays.

(b) The governing body of a municipality may after one public hearing by ordinance permit a restaurant, hotel, or club to sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. and 12:00 midnight on Sundays, provided that the licensee is in conformance with the Minnesota clean air act.

(c) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed \$200.

(d) A municipality may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the municipality voting on the question at a general or special election.

(e) 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 must be held on the day of the annual election of town officers.

(f) Voter approval is not required for licenses issued by the metropolitan airports commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of \$50, plus \$5 for each duplicate.

Subd. 4. **Intoxicating liquor; off-sale.** No sale of intoxicating liquor may be made by an off-sale licensee:

- (1) on Sundays;
- (2) before 8:00 a.m. on Monday through Saturday;
- (3) after 10:00 p.m. on Monday through Saturday at an establishment located in a city other than a city of the first class or within a city located within 15 miles of a city of the first class in the same county;
- (4) after 8:00 p.m. on Monday through Thursday and after 10:00 p.m. on Friday and Saturday at an establishment located in a city of the first class or within a city located within 15 miles of a city of the first class in the same county, provided that an establishment may sell intoxicating liquor until 10:00 p.m. on December 31 and July 3 unless otherwise prohibited under clause (1);

- (5) on New Years Day, January 1;
- (6) on Independence Day, July 4;
- (7) on Thanksgiving Day;
- (8) on Christmas Day, December 25; or
- (9) after 8:00 p.m. on Christmas Eve, December 24.

Subd. 5. **Bottle clubs.** No establishment licensed under section 340A.414, may permit a person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

Subd. 6. **Municipalities may limit hours.** A municipality may further limit the hours of sale of alcoholic beverages, provided that further restricted hours must apply equally to sales of nonintoxicating malt liquor and intoxicating liquor. A city may not permit the sale of alcoholic beverages during hours when the sale is prohibited by this section.

**History:** 1985 c 139 s 1; 1985 c 305 art 7 s 4; 1Sp1985 c 16 art 2 s 3 subd 1

#### **340A.505 LICENSEE MAY NOT SELL FOR RESALE.**

A retail licensee may not sell alcoholic beverages to any person for the purpose of resale or to any person whom the licensee has reason to believe intends to resell the alcoholic beverage without written approval of the commissioner.

**History:** 1985 c 305 art 7 s 5

#### **340A.506 SALES OF ETHYL ALCOHOL AND NEUTRAL SPIRITS PROHIBITED.**

No person may sell at retail for beverage purposes ethyl alcohol or neutral spirits, or substitutes thereof, possessing the taste, aroma, and characteristics generally attributed to ethyl alcohol or neutral spirits. Nothing in this section prohibits the manufacture or sale of other products obtained by use of ethyl alcohol or neutral spirits as defined in United States Treasury Department, Bureau of Internal Revenue, Regulations 125, Article II, Standards of Identity for Distilled Spirits.

**History:** 1985 c 305 art 7 s 6

#### **340A.507 REGULATION OF ADVERTISING.**

Subdivision 1. **Rules.** The commissioner may by rule regulate the advertising of alcoholic beverages. Rules must be adopted under chapter 14.

Subd. 2. **Wine catalogs.** No rule may 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. 3. **Border cities.** No rule may prohibit the advertising of intoxicating liquor prices by an off-sale licensee in a newspaper of general circulation published in an adjoining state if it is the primary newspaper of general circulation in the licensee's area.

Subd. 4. **Campus contests restricted.** No manufacturer, wholesaler, or retailer of alcoholic beverages, whether holding a license in Minnesota or not, may conduct, sponsor, or contribute financially to events or activities that are held on the campuses or other property of a post-secondary institution of learning, and involve the consumption or sale of alcoholic beverages. This subdivision does not affect on-campus, licensed retailers of alcoholic beverages.

**History:** 1985 c 305 art 7 s 7; 1986 c 330 s 7

#### **340A.508 TAMPERING OR REFILLING BOTTLES.**

Subdivision 1. **Refilling bottles.** It is unlawful for a person to sell, offer for sale, or keep for sale alcoholic beverages in a package or bottle which has been refilled or partly refilled.

Subd. 2. **Tampering or diluting contents.** It is unlawful for a person holding a retail intoxicating liquor license or a nonintoxicating liquor license, directly or indirectly through an agent, employee, or other person, to dilute or in any manner tamper with the contents of an original package or bottle so as to change its composition or alcoholic content while the contents are in the original package or bottle. Possession on the premises by a licensee of alcoholic beverages in the original package or bottle, differing in composition or alcoholic content from when it was received from the manufacturer or wholesaler from whom it was purchased, is prima facie evidence that the contents of the original package or bottle has been diluted, changed, or tampered with in violation of this section.

**History:** 1985 c 305 art 7 s 8

### 340A.509 LOCAL RESTRICTIONS.

A local authority may impose further restrictions and regulations on the sale and possession of alcoholic beverages within its limits.

**History:** 1985 c 305 art 7 s 9

### 340A.510 WINE SAMPLES.

Off-sale licenses and municipal liquor stores may 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.

**History:** 1Sp1986 c 3 art 1 s 43

## MUNICIPAL LIQUOR STORES

### 340A.601 ESTABLISHMENT OF MUNICIPAL LIQUOR STORES.

Subdivision 1. **Authority.** A city having a population of not more than 10,000 may establish, own, and operate a municipal liquor store which may sell at retail intoxicating liquor, nonintoxicating malt liquor, tobacco products, ice, soft drinks, beverages for mixing intoxicating liquor, and food for consumption on the premises. A municipal liquor store may also offer recorded or live entertainment and make available coin-operated amusement devices.

Subd. 2. **Population change.** A city which has established a municipal liquor store may continue to operate it notwithstanding a subsequent change in population if within one year after the effective date of the census by which the 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 on the question at the election vote in the affirmative on the question. The notice of the election shall state the question to be submitted to the electors at the election.

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

Subd. 4. **Newly formed municipalities; municipal liquor stores; liquor licenses.** A city may not establish or operate a municipal liquor store or issue an on-sale or off-sale liquor license until two years after its incorporation. This restriction does 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 section 368.01.

Subd. 5. **Issuance of licenses to private persons.** A city owning and operating a municipal liquor store may issue on-sale liquor licenses to hotels, clubs, and restaurants. A city issuing on-sale licenses under this subdivision may continue to operate

the municipal liquor store or may resume operation of a municipal liquor store previously discontinued.

The number of on-sale licenses issued under this section by a city is governed by section 340A.413.

A city may not issue licenses under this section until authorized by the voters of the city voting on the question at a special election called for that purpose.

**Subd. 6. Municipalities; certain on-sale licenses.** A city which did not permit the 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 subdivision 5.

**Subd. 7. Notice of intent.** A city which has issued retail intoxicating liquor licenses may not establish a municipal liquor store until one year after publishing a notice of its intention in the city's legal newspaper. The city must provide in the notice if the municipality will be engaging in the sale of intoxicating liquor to the exclusion of all private interests.

**History:** 1985 c 305 art 8 s 1

#### **340A.602 CONTINUATION.**

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 must 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 must not be more than 30 months following the date of the election.

**History:** 1985 c 305 art 8 s 2

#### **340A.603 FINANCIAL RESPONSIBILITY.**

Every municipal liquor store must demonstrate proof of financial responsibility required of licensees under section 340A.409. Proof of financial responsibility must be filed by January 15 of each year. The commissioner may suspend the operation of a municipal liquor store failing to demonstrate proof of financial responsibility until the commissioner is satisfied that the municipal liquor store is in compliance with section 340A.409. The commissioner must notify in writing the municipality operating the store of the effective date of the suspension. A suspension under this subdivision is a contested case under the administrative procedure act.

**History:** 1985 c 305 art 8 s 3

#### **340A.604 SUSPENSION OF OPERATION.**

A court shall notify the commissioner in writing within ten days whenever a municipal officer or employee has been convicted of any of the following offenses committed in a municipal liquor store:

- (1) selling alcoholic beverages to persons or at times prohibited by law;
- (2) selling alcoholic beverages for resale;
- (3) selling alcoholic beverages on which state taxes have not been paid; or
- (4) violating the provisions of section 340A.410, subdivision 6 relating to gambling and gambling devices.

On receiving the notice of conviction the commissioner may suspend for up to 30

days the operation of the municipal liquor store where the offense occurred. The commissioner must notify in writing the municipality operating the store of the effective dates of the suspension. An appeal of the suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

**History:** 1985 c 305 art 8 s 4

## VIOLATIONS AND PENALTIES

### 340A.701 FELONIES.

It is a felony:

- (1) to manufacture alcoholic beverages in violation of this chapter;
- (2) to transport or import alcoholic beverages into the state in violation of this chapter for purposes of resale; or
- (3) to sell or give away for beverage purposes poisonous alcohol, methyl alcohol, denatured alcohol, denaturing material, or any other alcoholic substance capable of causing serious physical or mental injuries to a person consuming it.

**History:** 1985 c 305 art 9 s 1

### 340A.702 GROSS MISDEMEANORS.

It is a gross misdemeanor:

- (1) to sell an alcoholic beverage without a license authorizing the sale;
- (2) for a licensee to refuse or neglect to obey a lawful direction or order of the commissioner or the commissioner's agent, withhold information or a document the commissioner calls for examination, obstruct or mislead the commissioner in the execution of the commissioner's duties or swear falsely under oath;
- (3) to violate the provisions of sections 340A.301 to 340A.313;
- (4) to violate the provisions of section 340A.508;
- (5) for any person, partnership, or corporation to knowingly have or possess direct or indirect interest in more than one off-sale intoxicating liquor license in a municipality in violation of section 340A.412, subdivision 3;
- (6) to sell or otherwise dispose of intoxicating liquor within 1,000 feet of a 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;
- (7) to violate the provisions of section 340A.502;
- (8) to violate the provisions of section 340A.503, subdivision 2, clause (1) or (3);
- (9) to withhold any information, book, paper, or other thing called for by the commissioner for the purpose of an examination;
- (10) to obstruct or mislead the commissioner in the execution of the commissioner's duties; or
- (11) to swear falsely concerning any matter stated under oath.

**History:** 1985 c 305 art 9 s 2; 1Sp1986 c 3 art 1 s 45

### 340A.703 MISDEMEANORS.

Where no other penalty is specified a violation of any provision of this chapter is a misdemeanor.

**History:** 1985 c 305 art 9 s 3

### 340A.704 SEARCH WARRANTS.

Search warrants may be issued in connection with violation of this chapter or other laws relating to sale, taxation, transportation, manufacture, or possession of alcoholic beverages in accordance with chapter 626.

**History:** 1985 c 305 art 9 s 4

**340A.705 PRIMA FACIE EVIDENCE.**

The finding of an unauthorized still is prima facie evidence of possession for the purpose of unlawful manufacture of alcoholic beverages.

**History:** 1985 c 305 art 9 s 5

**CIVIL LIABILITY****340A.801 CIVIL ACTIONS.**

**Subdivision 1. Right of action.** A spouse, child, parent, guardian, employer, or other person injured in person, property, or means of support by an intoxicated person or by the intoxication of another person, has a right of action in the person's own name for all damages sustained against a person who caused the intoxication of that person by illegally selling alcoholic beverages. All damages recovered by a minor under this section must be paid either to the minor or to the minor's parent, guardian, or next friend as the court directs.

**Subd. 2. Actions.** All suits for damages under this section must be by civil action in a court of this state having jurisdiction.

**Subd. 3. Comparative negligence.** Actions under this section are governed by section 604.01.

**Subd. 4. Subrogation claims denied.** There shall be no recovery by any insurance company against any liquor vendor under subrogation clauses of the uninsured, underinsured, collision, or other first party coverages of a motor vehicle insurance policy as a result of payments made by the company to persons who have claims that arise in whole or part under this section. The provisions of section 65B.53, subdivision 3, do not apply to actions under this section.

**Subd. 5. Presumed damages in case of death.** In the case of an individual who is deceased and where a person is found liable under this section for a person's death, the individual or those claiming damages on the person's behalf, shall be conclusively presumed collectively to be damaged in a minimum amount of \$30,000; provided, however, that nothing herein shall prevent a claimant from recovering a greater amount of damages to the extent allowable and proven under this section.

**History:** 1985 c 305 art 10 s 1; 1985 c 309 s 12; 1Sp1985 c 16 art 2 s 3 subd 1

NOTE: That the court of appeals in Itasca County vs. Palm Garden Bar, August 26, 1986, docket number CO-86-447 (Minn. Ct. App. 1986) disapproved the revisor's codification of multiple amendments to the Dram Shop law made by the Minnesota Legislature in 1985. The case is subject to further appeal. That case and subsequent decisions should be examined in addition to the words of this section.

**340A.802 NOTICE OF INJURY; DISCOVERY BEFORE ACTIONS.**

**Subdivision 1. Notice of injury.** A person who claims damages and a person or insurer who claims contribution or indemnity from a licensed retailer of alcoholic beverages or municipal liquor store for or because of an injury within the scope of section 340A.801 must give a written notice to the licensee or municipality stating:

(1) the time and date when and person to whom the alcoholic beverages were sold or bartered;

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

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

A licensee or municipality who claims contribution or indemnification from another licensee or municipality must give a written notice to the other licensee or municipality in the form and manner specified in this section.

An error or omission in the notice does not void the notice's effect if the notice is otherwise valid unless the error or omission is of a substantially material nature.

**Subd. 2. Limitations; content.** In the case of a claim for damages, the notice must 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. In the case of claims for contribution or indemnity, the notice must 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. No action for damage or for contribution or indemnity may be maintained unless the notice has been given. If requested to do so, a municipality or licensee receiving a notice shall promptly furnish claimant's attorney the names and addresses of other municipalities or licensees who sold or bartered liquor to the person identified in the notice, if known. Actual notice of sufficient facts reasonably to put the licensee or governing body of the municipality on notice of a possible claim complies with the notice requirement.

No action may be maintained under section 340A.801 unless commenced within two years after the injury.

Subd. 3. **Bad faith notice.** A claimant who in bad faith gives notice to a licensee who did not sell or barter liquor to the alleged intoxicated person is subject to liability for actual damages, which shall include the reasonable out-of-pocket attorney fees incurred by the licensee in the defense of the bad faith notice.

**History:** 1985 c 305 art 10 s 2; 1985 c 309 s 13; 1Sp1985 c 16 art 2 s 3 subd 1; 1Sp1986 c 3 art 1 s 44

## MISCELLANEOUS PROVISIONS

### 340A.901 CITATION.

This chapter may be cited as the liquor act.

**History:** 1985 c 305 art 11 s 1

### 340A.902 DRUNKENNESS NOT A CRIME.

No person may be charged with or convicted of the offense of drunkenness or public drunkenness. Nothing herein prevents the prosecution and conviction of an intoxicated person for offenses other than drunkenness or public drunkenness nor does this section relieve a person from civil liability for an injury to persons or property caused by the person while intoxicated.

**History:** 1985 c 305 art 11 s 2

### 340A.903 SIZE OF CONTAINERS.

Notwithstanding any law or rule to the contrary, nonintoxicating malt liquor may be sold in containers of not more than 128 fluid ounces.

**History:** 1985 c 305 art 11 s 3

### 340A.904 SEIZED LIQUOR.

Subdivision 1. **Disposal alternatives.** Contingent on the final determination of any action pending in a court, the commissioner shall dispose of alcoholic beverages, material, apparatus, or vehicle seized by inspectors or employees of the department by:

- (1) delivering alcoholic beverages to the bureau of criminal apprehension or state patrol for use in chemical testing programs;
- (2) delivering on written requests of the commissioner of administration any material, apparatus, or vehicle for use by a state department;
- (3) selling intoxicating liquor to licensed retailers within the state;
- (4) selling any material, apparatus, or vehicle; or
- (5) destroying alcoholic beverages or contraband articles that have no lawful use.

Subd. 2. **Sale procedure.** A sale of intoxicating liquor, materials, apparatus, or vehicles may be made only with the written approval of the commissioner of administration and after notice of the sale is published in one issue of a legal newspaper published in St. Paul. Scaled bids must be publicly opened in the office of the commissioner of public safety on a date stated in the notice, which may not be less than 15 days or more than 30 days after its publication. The net proceeds from the sale of alcoholic beverages or articles must, after the deduction of the expense of seizure or



sale, be deposited by the commissioner of public safety with the state treasurer and credited to the general fund.

Subd. 3. **Tax exemption.** Sales of alcoholic beverages made by the commissioner are exempt from the state excise tax if stamps evidencing the payment of the excise tax have not been placed thereon prior to the seizure if before resale proper excise stamps are attached to all containers.

**History:** 1985 c 305 art 11 s 4

#### **340A.905 NOTICE OF VIOLATION.**

When any municipal liquor store or licensed dealer in alcoholic beverages or agent or employee thereof is convicted of a violation of any provision of this chapter or any law or ordinance regulating the sale of alcoholic beverages or any violation of law or ordinance in the operation of the licensed premises, the court administrator shall, within ten days after the conviction, mail a written notice of the conviction to the clerk of the municipality or county auditor of the county having jurisdiction to issue alcoholic beverage licenses for the premises. A copy of the notice must be mailed to the commissioner of public safety.

**History:** 1985 c 305 art 11 s 5; 1Sp1986 c 3 art 1 s 82

#### **340A.906 NONAPPLICABILITY.**

This chapter does not apply to:

- (1) medicines intended for therapeutic purposes and not intended as a beverage;
- (2) industrial alcohol designed for mechanical, chemical, scientific, pharmaceutical, or industrial purposes; or
- (3) nonpotable compounds or preparations containing alcohol.

**History:** 1985 c 305 art 11 s 6